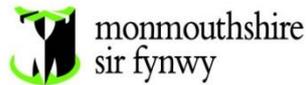


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Neuadd y Cyngor  
Y Rhadyr  
Brynbuga  
NP15 1GA

Dydd Llun, 24 Hydref 2022

Hysbysiad o gyfarfod

## Pwyllgor Cynllunio

Dydd Mawrth, 1af Tachwedd, 2022 at 2.00 pm,  
Neuadd Y Sir, Y Rhadyr, Brynbuga, NP15 1GA a Gyfarfod o Bell

### AGENDA

Eitem Ddim	Eitem	Tudallennau
1.	Ymddiheuriadau am absenoldeb	
2.	Datganiadau o Fuddiant	
3.	Cadarnhau cofnodion y cyfarfod blaenorol	1 - 6
4.	Ystyried yr adroddiadau am Geisiadau Cynllunio gan y Prif Swyddog, Cymunedau a Lle (copïau wedi eu hatodi):	
4.1.	DM/2019/01684: Newid y defnydd o dir amaethyddol i storfa B8 – Tir i'r de o Garej Bryn, B4598 Llangattock Lodge i Heol Kemeys, Penpergwm, Sir Fynwy	7 - 16
4.2.	DM/2020/00762: Cais cynllunio llawn ar gyfer newid y defnydd o'r ganolfan ymwelwyr yn Llandegfedd, er mwyn caniatáu'r defnyddio'r adeilad ar gyfer cyfarfodydd, digwyddiadau ac ymestyn yr oriau agor a gafodd eu cymeradwyo fel rhan o'r caniatâd cynllunio DC/2012/00442 - Y Ganolfan Ymwelwyr, Canolfan Ymwelwyr Llandegfedd Heol Croes-gweddyn, Coed-y-Paen, Sir Fynwy	17 - 56
4.3.	DM/2020/00763 Caniatâd ar gyfer newid y defnydd o'r cyfleuster chwaraeon dŵr yn Llandegfedd er mwyn caniatáu'r defnyddio'r adeilad ar gyfer cyfarfodydd, digwyddiadau ac ymestyn yr oriau agor a gafodd eu cymeradwyo fel rhan o'r caniatâd cynllunio DC/2012/00317 – Canolfan Chwaraeon Dŵr, Canolfan Chwaraeon Dŵr Llandegfedd, Heol Croes-gweddyn, Coed-y-Paen	57 - 96

4.4.	DM/2021/00357 Darparu 120 o anheddau ar barseli B a C2 – Fferm Rockfield, Gwndy, Sir Fynwy, NP26 3EL	97 - 114
4.5.	DM/2021/02005 Diwygio'r Apêl a Ganiatawyd APP/E6840/A/17/3168486 er mwyn creu maes ychwanegol (7 to 8) gan addasu'r cynllun, dyluniad a gwelliannau ecolegol. - Tir Cyfagos at Fferm Upper Maerdy, Red Hill i'r B4235, Llangeview Sir Fynwy	115 - 126
4.6.	DM/2022/00484 Cais cynllunio llawn ar gyfer adeiladu 9 o anheddau gan gynnwys mynediad, draenio, tirlunio, y gwaith peirianeg ar gwaith seilwaith - Tir yn yr Hen Dŷ'r Degwm, Heol yr Eglwys, Gwndy, NP26 3EN	127 - 146
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5.	ER GWYBODAETH – yr Arolygiaeth Gynllunio – Penderfyniadau am Apeliadau sydd wedi eu Derbyn	
5.1.	CAS-01509-P1Z2X3 - 2-4 Stryd Monnow, Trefynwy, Sir Fynwy, NP25 3EE	157 - 162

**Paul Matthews**

**Prif Weithredwr**

## CYNGOR SIR FYNWY

### MAE CYFANSODDIAD Y PWYLLGOR FEL SY'N DILYN:

Cynghorwyr Sir:

Jill Bond  
Fay Bromfield  
Emma Bryn  
Jan Butler  
Ben Callard  
John Crook  
Tony Easson  
Steven Garratt  
Meirion Howells  
Su McConnel  
Jayne McKenna  
Phil Murphy  
Maureen Powell  
Sue Riley  
Dale Rooke  
Ann Webb

### Gwybodaeth Gyhoeddus

**Bydd rhaid i unrhyw person sydd eisiau siarad yn Y Pwyllgor Cynllunio cofrestru gyda Gwasanaethau Democrataidd erbyn hanner dydd ar diwrnod cyn y cyfarfod. Mae manylion ynglŷn a siarad yn cyhoeddus ar gael tu fewn i'r agenda neu yma [Protocol ar gyfraniadau gan y cyhoedd mewn Pwyllgorau Cynllunio](#)**

#### **Mynediad i gopiâu papur o agendâu ac adroddiadau**

Gellir darparu copi o'r agenda hwn ac adroddiadau perthnasol i aelodau'r cyhoedd sy'n mynychu cyfarfod drwy ofyn am gopi gan Gwasanaethau Democrataidd ar 01633 644219. Dylid nodi fod yn rhaid i ni dderbyn 24 awr o hysbysiad cyn y cyfarfod er mwyn darparu copi caled o'r agenda hwn i chi.

#### **Edrych ar y cyfarfod ar-lein**

Gellir gweld y cyfarfod ar-lein yn fyw neu'n dilyn y cyfarfod drwy fynd i [www.monmouthshire.gov.uk](http://www.monmouthshire.gov.uk) neu drwy ymweld â'n tudalen Youtube drwy chwilio am MonmouthshireCC. Drwy fynd i mewn i'r ystafell gyfarfod, fel aelod o'r cyhoedd neu i gymryd rhan yn y cyfarfod, rydych yn caniatáu i gael eich ffilmio ac i ddefnydd posibl y delweddau a'r recordiadau sain hynny gan y Cyngor.

#### **Y Gymraeg**

Mae'r Cyngor yn croesawu cyfraniadau gan aelodau'r cyhoedd drwy gyfrwng y Gymraeg neu'r Saesneg. Gofynnwn gyda dyledus barch i chi roi 5 diwrnod o hysbysiad cyn y cyfarfod os dymunwch siarad yn Gymraeg fel y gallwn ddarparu ar gyfer eich anghenion.

# Nodau a Gwerthoedd Cyngor Sir Fynwy

## Cymunedau Cynaliadwy a Chryf

### Canlyniadau y gweithiwn i'w cyflawni

#### Neb yn cael ei adael ar ôl

- Gall pobl hŷn fyw bywyd da
- Pobl â mynediad i dai addas a fforddiadwy
- Pobl â mynediad a symudedd da

#### Pobl yn hyderus, galluog ac yn cymryd rhan

- Camddefnyddio alcohol a chyffuriau ddim yn effeithio ar fywydau pobl
- Teuluoedd yn cael eu cefnogi
- Pobl yn teimlo'n ddiogel

#### Ein sir yn ffynnu

- Busnes a menter
- Pobl â mynediad i ddysgu ymarferol a hyblyg
- Pobl yn diogelu ac yn cyfoethogi'r amgylchedd

### Ein blaenoriaethau

- Ysgolion
- Diogelu pobl agored i niwed
- Cefnogi busnes a chreu swyddi
- Cynnal gwasanaethau sy'n hygyrch yn lleol

### Ein gwerthoedd

- **Bod yn agored:** anelwn fod yn agored ac onest i ddatblygu perthnasoedd ymddiriedus
- **Tegwch:** anelwn ddarparu dewis teg, cyfleoedd a phrofiadau a dod yn sefydliad a adeiladwyd ar barch un at y llall.
- **Hyblygrwydd:** anelwn fod yn hyblyg yn ein syniadau a'n gweithredoedd i ddod yn sefydliad effeithlon ac effeithiol.
- **Gwaith tîm:** anelwn gydweithio i rannu ein llwyddiannau a'n methiannau drwy adeiladu ar ein cryfderau a chefnogi ein gilydd i gyflawni ein nodau.
- **Caredigrwydd** – Byddwn yn dangos caredigrwydd i bawb yr ydym yn gweithio gyda nhw, gan roi pwysigrwydd perthnasoedd a'r cysylltiadau sydd gennym â'n gilydd wrth wraidd pob rhyngweithio.

## **Diben**

Diben yr adroddiadau a atodir a'r cyflwyniad cysylltiedig gan swyddogion i'r Pwyllgor yw galluogi'r Pwyllgor Cynllunio i wneud penderfyniad ar bob cais yn y rhestr a atodir, ar ôl pwysu a mesur y gwahanol ystyriaethau cynllunio perthnasol.

Dirprwywyd pwerau i'r Pwyllgor Cynllunio wneud penderfyniadau ar geisiadau cynllunio. Mae'r adroddiadau a gynhwysir yn yr atodlen yma'n asesu'r datblygiad arfaethedig yn erbyn polisi cynllunio perthnasol ac ystyriaethau cynllunio eraill perthnasol, a rhoi ystyriaeth i'r holl ymatebion ymgynghori a dderbyniwyd. Daw pob adroddiad i ben gydag argymhelliad swyddog i'r Pwyllgor Cynllunio ar p'un ai yw swyddogion yn ystyried y dylid rhoi caniatâd cynllunio (gydag awgrym am amodau cynllunio lle'n briodol) neu ei wrthod (gydag awgrymiadau am resymau dros wrthod).

Dan Adran 38(6) Deddf Cynllunio a Phrynu Gorfodol 2004, mae'n rhaid i bob cais cynllunio gael eu penderfynu yn unol â Chynllun Datblygu Lleol Sir Fynwy 2011-2021 (a fabwysiadwyd yn Chwefror 2014), os nad yw ystyriaethau cynllunio perthnasol yn awgrymu fel arall.

Disgwylir i'r holl benderfyniadau a wneir fod o fudd i'r Sir a'n cymunedau drwy ganiatáu datblygu ansawdd da yn y lleoliadau cywir, ac ymwrthod â datblygiad amhriodol, ansawdd gwael neu yn y lleoliad anghywir. Mae cysylltiad uniongyrchol i amcan y Cyngor o adeiladu cymunedau cryf a chynaliadwy.

## **Gwneud penderfyniadau**

Gellir cytuno ar geisiadau yn rhwym ar amodau cynllunio. Mae'n rhaid i amodau gyflawni'r holl feini prawf dilynol:

- Angenrheidiol i wneud y datblygiad arfaethedig yn dderbyniol;
- Perthnasol i ddeddfwriaeth cynllunio (h.y. ystyriaeth cynllunio);
- Perthnasol i'r datblygiad arfaethedig dan sylw;
- Manwl;
- Gorfodadwy; a
- Rhesymol ym mhob cyswllt arall.

Gellir cytuno i geisiadau yn amodol ar gyfundeb cyfreithiol dan Adran 106 Deddf Cynllunio Tref a Gwlad 1990 (fel y'i diwygiwyd). Mae hyn yn sicrhau goblygiadau cynllunio i wrthbwysu effeithiau'r datblygiad arfaethedig. Fodd bynnag, mae'n rhaid i'r goblygiadau cynllunio hyn gyflawni'r holl feini prawf dilynol er mwyn iddynt fod yn gyfreithlon:

- Angenrheidiol i wneud y datblygiad yn dderbyniol mewn termau cynllunio;
- Uniongyrchol gysylltiedig â'r datblygiad; ac
- Wedi cysylltu'n deg ac yn rhesymol mewn maint a math i'r datblygiad.

Mae gan yr ymgeisydd hawl apelio statudol yn erbyn gwrthod caniatâd yn y rhan fwyaf o achosion, neu yn erbyn gosod amodau cynllunio, neu yn erbyn methiant y Cyngor i benderfynu ar gais o fewn y cyfnod statudol. Nid oes unrhyw hawl apelio trydydd parti yn erbyn penderfyniad.

Gall y Pwyllgor Cynllunio wneud argymhellion sy'n groes i argymhelliad y swyddog. Fodd bynnag, mae'n rhaid rhoi rhesymau am benderfyniadau o'r fath ac mae'n rhaid i'r penderfyniad fod yn seiliedig ar y Cynllun Datblygu Lleol (LDP) a/neu ystyriaethau cynllunio perthnasol. Pe byddai penderfyniad o'r fath yn cael ei herio mewn apêl, bydd yn ofynnol i Aelodau Pwyllgor amddiffyn eu penderfyniad drwy'r broses apêl.

## **Prif gyd-destun polisi**

Mae'r LDP yn cynnwys y prif bolisiâu datblygu a dylunio. Yn hytrach nag ail-adrodd y rhain ar gyfer pob cais, caiff y geiriad llawn ei osod islaw er cymorth Aelodau.

*Polisi EP1 - Gwarchod Amwynderau a'r Amgylchedd*

Dylai datblygiad, yn cynnwys cynigion ar gyfer adeiladau newydd, estyniadau i adeiladau presennol a hysbysebion roi ystyriaeth i breifatrwydd, amwynder ac iechyd defnyddwyr adeiladau cyfagos. Ni chaniateir cynigion datblygu a fyddai'n achosi neu'n arwain at risg/niwed annerbyniol i amwynder lleol, iechyd, cymeriad/ansawdd cefn gwlad neu fuddiannau cadwraeth natur, tirlun neu bwysigrwydd treftadaeth adeiledig oherwydd y dilynol, os na fedrir dangos y gellir cymryd mesurau i oresgyn unrhyw risg sylweddol:

- Llygredd aer;
- Llygredd golau neu sŵn;
- Llygredd dŵr;
- Halogiad;
- Ansefydlogrwydd tir; neu
- Unrhyw risg a ddyndwyd i iechyd neu ddiogelwch y cyhoedd.

#### Polisi DES1 – Ystyriaethau Dylunio Cyffredinol

Dylai pob datblygiad fod o ddyluniad cynaliadwy ansawdd uchel a pharchu cymeriad lleol a nodweddion neilltuol amgylchedd adeiledig, hanesyddol a naturiol Sir Fynwy. Bydd yn ofynnol i gynigion datblygu:

- a) Sicrhau amgylchedd diogel, dymunol a chyfleus sy'n hygyrch i bob aelod o'r gymuned, yn cefnogi egwyddorion diogelwch y gymuned ac yn annog cerdded a seiclo;
- b) Cyfrannu tuag at naws o le wrth sicrhau fod maint y datblygiad a'i ddwyyster yn gydnaws gyda defnyddiau presennol;
- c) Parchu ffurf, maint, lleoliad, casglu, deunyddiau a gweddllun ei osodiad ac unrhyw adeiladau cyfagos o ansawdd;
- d) Cynnal lefelau rhesymol o breifatrwydd ac amwynder defnyddwyr adeiladau cyfagos, lle'n berthnasol;
- e) Parchu'r golygfeydd adeiledig a naturiol lle maent yn cynnwys nodweddion hanesyddol a/neu amgylchedd adeiledig neu dirlun deniadol neu neilltuol;
- f) Defnyddio technegau adeiladu, addurniad, arddulliau a golau i wella ymddangosiad y cynnig gan roi ystyriaeth i wead, lliw, patrwm, cadernid a saerniaeth mewn defnyddio deunyddiau;
- g) Ymgorffori a, lle'n bosibl, wella nodweddion presennol sydd o werth hanesyddol, gweledol neu gadwraeth natur a defnyddio'r traddodiad brodorol lle'n briodol;
- h) Cynnwys cynigion tirlun ar gyfer adeiladau newydd a defnyddiau tir fel eu bod yn integreiddio i'w hamgylchiadau, gan roi ystyriaeth i ymddangosiad y tirlun presennol a'i gymeriad cynhenid, fel y'i diffinnir drwy broses LANDMAP. Dylai tirlunio roi ystyriaeth i, a lle'n briodol gadw, coed a gwrychoedd presennol;
- i) Gwneud y defnydd mwyaf effeithiol o dir sy'n gydnaws gyda'r meini prawf uchod, yn cynnwys y dylai isafswm dwysedd net datblygiad preswyl fod yn 30 annedd fesul hectar, yn amodol ar faen prawf l) islaw;
- j) Sicrhau dyluniad sy'n ymateb i'r hinsawdd ac effeithiol o ran adnoddau. Dylid rhoi ystyriaeth i leoliad, cyfeiriadu, dwysedd, gweddllun, ffurf adeiledig a thirlunio ac i effeithiolrwydd ynni a defnyddio ynni adnewyddadwy, yn cynnwys deunyddiau a thechnoleg;
- k) Meithrin dylunio cynhwysol;
- l) Sicrhau y caiff ardaloedd preswyl presennol a nodweddir gan safonau uchel o breifatrwydd ac ehangder eu gwarchod rhag gor-ddatblygu a mewnlenni ansensitif neu amhriodol.

Cyfeirir at bolisiau perthnasol allweddol eraill yr LDP yn adroddiad y swyddog.

#### Canllawiau Cynllunio Atodol (SPG):

Gall y Canllawiau Cynllunio Atodol dilynol hefyd fod yn berthnasol i wneud penderfyniadau fel ystyriaeth cynllunio perthnasol:

- Seilwaith Gwyrdd (mabwysiadwyd Ebrill 2015)
- Canllawiau Dylunio Trosi Adeiladau Amaethyddol (mabwysiadwyd Ebrill 2015)
- Polisi H4(g) LDP Trosi/Adfer Adeiladau yng Nghefn Gwlad i Ddefnydd Preswyl - Asesu Ail-ddefnydd ar gyfer Dibenion Busnes (mabwysiadwyd Ebrill 2015)
- Polisiâu H5 a H6 LDP Anheddau yn Lle ac Ymestyn Anheddau Gwledig yng Nghefn Gwlad (mabwysiadwyd Ebrill 2015)

- Arfarniad Ardal Cadwraeth Trellech (Ebrill 2012)
- Garejys Domestig (mabwysiadwyd Ionawr 2013)
- Safonau Parcio Sir Fynwy (mabwysiadwyd Ionawr 2013)
- Ymagwedd at Oblygiadau Cynllunio (Mawrth 2013)
- Drafft Tai Fforddiadwy (Gorffennaf 2015)
- Drafft Ynni Adnewyddadwy ac Effeithiolrwydd Ynni (Rhagfyr 2014)
- Drafft Nodyn Cyngor Cynllunio ar Asesu Tirlun Datblygu ac Effaith Gweledol Tyrbinau Gwynt
- Drafft Prif Wynebau Siopau (Mehafin 2015)

### Polisi Cynllunio Cyhoeddus

Gall y polisi cynllunio cenedlaethol dilynol hefyd fod yn berthnasol i wneud penderfyniadau fel ystyriaeth cynllunio berthnasol:

- Polisi Cynllunio Cymru (PPW) 11 2016
- Nodiadau Cyngor Technegol (TAN) PPW:
- TAN 1: Cydastudiaethau Argaeledd Tir Tai (2014)
- TAN 2: Cynllunio a Thai Fforddiadwy (2006)
- TAN 3: Symleiddio Parthau Cynllunio (1996)
- TAN 4: Manwerthu a Chanol Trefi (1996)
- TAN 5: Cadwraeth Natur a Chynllunio (2009)
- TAN 6: Cynllunio ar gyfer Cymunedau Gwledig Cynaliadwy (2010)
- TAN 7: Rheoli Hysbysebion Awyr Agored (1996)
- TAN 8: Ynni Adnewyddadwy (2005)
- TAN 9: Gorfodaeth Rheoli Adeiladu (1997)
- TAN 10: Gorchmynion Cadwraeth Coed (1997)
- TAN 11: Sŵn (1997)
- TAN 12: Dylunio (2014)
- TAN 13: Twristiaeth (1997)
- TAN 14: Cynllunio Arfordirol (1998)
- TAN 15: Datblygu a Risg Llifogydd (2004)
- TAN 16: Chwaraeon, Hamdden a Gofodau Agored (2009)
- TAN 18: Trafnidiaeth (2007)
- TAN 19: Telathrebu (2002)
- TAN 20: Y Gymraeg (2013)
- TAN 21: Gwastraff (2014)
- TAN 23: Datblygu Economaidd (2014)
- TAN 24: Yr Amgylchedd Hanesyddol (2017)
- Nodyn Cyngor Technegol Mwynol (MTAN) Cymru 1: Agregau (30 Mawrth 2004)
- Nodyn Cyngor Technegol Mwynol (MTAN) Cymru 2: Glo (20 Ionawr 2009)
- Cylchlythyr Llywodraeth Cymru 016/2014 ar amodau cynllunio

### **Materion eraill**

Gall y ddeddfwriaeth ddilynol arall fod yn berthnasol wrth wneud penderfyniadau

#### Deddf Cynllunio (Cymru) 2016

Daeth Adranau 11 a 31 y Ddeddf Cynllunio i rym yn Ionawr 2016 yn golygu fod y Gymraeg yn ystyriaeth cynllunio berthnasol. Mae Adran 11 yn ei gwneud yn ofynnol i'r gwerthusiad cynaliadwyedd, a gymerir wrth baratoi LDP, gynnwys asesiad o effeithiau tebygol y cynllun ar ddefnydd y Gymraeg yn y gymuned. Lle mae cynllun integredig sengl yr awdurdod wedi dynodi bod y Gymraeg yn flaenoriaeth, dylai'r asesiad fedru dangos y cysylltiad rhwng yr ystyriaeth ar gyfer y Gymraeg a'r prif arfarniad cynaliadwyedd ar gyfer yr LDP, fel y'i nodir yn TAN 20.

Mae Adran 31 y Ddeddf Cynllunio yn egluro y gall awdurdodau cynllunio gynnwys ystyriaethau yn ymwneud â'r defnydd o'r Gymraeg wrth wneud penderfyniadau ar geisiadau am ganiatâd cynllunio, cyn belled ag mae'n berthnasol i'r Gymraeg. Nid yw'r darpariaethau yn rhoi unrhyw bwysiad ychwanegol i'r Gymraeg o gymharu ag ystyriaethau perthnasol eraill. Mater i'r awdurdod cynllunio lleol yn llwyr yw p'un ai yw'r Gymraeg yn ystyriaeth berthnasol mewn unrhyw gais cynllunio, a

dylai'r penderfyniad p'un ai i roi ystyriaeth i faterion y Gymraeg gael ei seilio ar yr ystyriaeth a roddwyd i'r Gymraeg fel rhan o broses paratoi'r LDP.

Cynhaliwyd gwerthusiad cynaliadwyedd ar Gynllun Datblygu Lleol (LDP) Sir Fynwy a fabwysiadwyd yn 2014, gan roi ystyriaeth i'r ystod lawn o ystyriaethau cymdeithasol, amgylcheddol ac economaidd, yn cynnwys y Gymraeg. Cyfran cymharol fach o boblogaeth Sir Fynwy sy'n siarad, darllen neu ysgrifennu Cymraeg o gymharu gydag awdurdodau lleol eraill yng Nghymru ac ni ystyriwyd fod angen i'r LDP gynnwys polisi penodol ar y Gymraeg. Roedd casgliad yr asesiad am effeithiau tebygol y cynllun ar y defnydd o'r Gymraeg yn y gymuned yn fach iawn.

#### Rheoliadau Asesiad Effaith ar yr Amgylchedd 1999

Mae Rheoliadau Cynllunio Tref a Gwlad (Asesiad Effaith ar yr Amgylchedd) (Lloegr a Chymru) 1999 fel y'i diwygiwyd gan Reoliadau Cynllunio Tref a Gwlad (Asesiad Effaith ar yr Amgylchedd) (Diwygiad) 2008 yn berthnasol i'r argymhellion a wnaed. Bydd y swyddog yn tynnu sylw at hynny pan gyflwynwyd Datganiad Amgylcheddol gyda chais.

#### Rheoliadau Cadwraeth Rhywogaethau a Chynefinoedd 2010

Lle aseswyd bod safe cais yn safle bridio neu glwydo ar gyfer rhywogaethau Ewropeaidd a warchodir, bydd angen fel arfer i'r datblygydd wneud cais am "randdirymiad" (trwydded datblygu) gan Cyfoeth Naturiol Cymrau. Mae pob rhywogaeth o ystlumod, pathwod a madfallod cribog mawr yn enghreifftiau o'r rhywogaethau gwarchodedig hyn. Wrth ystyried ceisiadau cynllunio mae'n ofynnol i Gyngor Sir Fynwy fel awdurdod cynllunio lleol roi ystyriaeth i Reoliadau Cadwraeth Rhywogaethau a Chynefinoedd 20120 (y Rheoliadau Cynefinoedd) ac i'r ffaith mai dim ond lle cyflawnir tri phrawf a nodir yn Erthygl 16 y Gyfarwyddeb Cynefinoedd y caniateir rhanddirymiaid. Caiff y tri phrawf eu nodi islaw.

(i) Mae'r rhanddirymiad er budd iechyd a diogelwch y cyhoedd, neu am resymau hanfodol eraill o ddiddordeb pennaf i'r cyhoedd, yn cynnwys rhai o natur economaidd a chanlyniadau buddiol o bwysigrwydd sylfaenol i'r amgylchedd.

(ii) Nad oes dewis arall boddhaol.

(iii) Nad yw'r rhanddirymiad yn niweidiol i gynnal y boblogaeth o'r rhywogaeth dan sylw drwy statws cadwraeth ffafriol yn eu hardal naturiol.

#### Deddf Llesiant Cenedlaethau'r Dyfodol (Cymru) 2015

Nod y Ddeddf yw gwella llesiant cymdeithasol, economaidd, amgylcheddol a diwylliannol Cymru. Mae'r Ddeddf yn gosod nifer o amcanion llesiant

- **Cymru lewyrchus;** defnydd effeithiol o adnoddau, pobl fedrus ac addysgedig, cynhyrchu cyfoeth, darparu swyddi;
- **Cymru gref;** cynnal a chyfoethogi bioamrywiaeth ac ecosystemau sy'n cefnogi hynny ac a all addasu i newid (e.e. newid yn yr hinsawdd);
- **Cymru iachach;** cynyddu llesiant corfforol a meddyliol pobl i'r eithaf a deall effeithiau iechyd;
- **Cymru o gymunedau cydlynol:** cymunedau yn ddeniadol, hyfyw, diogel a gyda chysylltiadau da.
- **Cymru sy'n gyfrifol yn fyd-eang:** rhoi ystyriaeth i effaith ar lesiant byd-eang wrth ystyried llesiant cymdeithasol, economaidd ac amgylcheddol lleol;
- **Cymru gyda diwylliant egniïol a'r iaith Gymraeg yn ffynnu:** caiff diwylliant, treftadaeth a'r Gymraeg eu hyrwyddo a'u diogelu. Caiff pobl eu hannog i gymryd rhan mewn chwaraeon, celf a hamdden;
- **Cymru fwy cyfartal:** gall pobl gyflawni eu potensial beth bynnag yw eu cefndir neu amgylchiadau.

Caiff nifer o egwyddorion datblygu cynaliadwy hefyd eu hamlinellu:

- **Hirdymor:** cydbwyso angen tymor byr gyda'r hirdymor a chynllunio ar gyfer y dyfodol;
- **Cydweithio:** cydweithio gyda phartneriaid eraill i gyflawni amcanion;
- **Ymggyfraniad:** cynnwys y rhai sydd â diddordeb a gofyn am eu barn;
- **Atal:** rhoi adnoddau i ateb problemau rhag digwydd neu waethygu;
- **Integreiddio:** cael effaith gadarnhaol ar bobl, yr economi a'r amgylchedd a cheisio bod o fudd i bob un o'r tri.



Mae'r gwaith a wneir gan awdurdod cynllunio lleol yn cysylltu'n uniongyrchol â hyrwyddo a sicrhau datblygu cynaliadwy ac yn anelu i sicrhau cydbwysedd rhwng y tri maes: amgylchedd, economi a chymdeithas.

#### Trefn Troseddu ac Anrhefn 1998

Mae Adran 17(1) Deddf Troseddu ac Anrhefn 1998 yn gosod dyletswydd ar awdurdod lleol i weithredu ei wahanol swyddogaethau gan roi ystyriaeth ddyledus i effaith debygol gweithredu'r swyddogaethau hynny ar, a'r angen i wneud popeth y gall ei wneud yn rhesymol i atal troseddu ac anrhefn yn ei ardal. Gall troseddu ac ofn troseddu fod yn ystyriaeth cynllunio berthnasol. Tynnir sylw at y pwnc hwn yn adroddiad y swyddog lle mae'n ffurfio ystyriaeth sylweddol ar gyfer cynnig.

#### Deddf Cydraddoldeb 2010

Mae Deddf Cydraddoldeb 2010 yn cynnwys dyletswydd cydraddoldeb sector cyhoeddus i integreiddio ystyriaeth cydraddoldeb a chysylltiadau da ym musnes rheolaidd awdurdodau cyhoeddus. Mae'r Ddeddf yn dynodi nifer o 'nodweddion gwarchoddedig': oedran, anabledd, aillbennu rhywedd; priodas a phartneriaeth sifil; hil; crefydd neu gredo; rhyw; a chyfeiriadedd rhywiol. Bwriedir i gydymffurfiaeth arwain at benderfyniadau a wnaed ar sail gwybodaeth well a datblygu polisi a gwasanaethau sy'n fwy effeithlon ar gyfer defnyddwyr. Wrth weithredu ei swyddogaethau, mae'n rhaid i'r Cyngor roi ystyriaeth ddyledus i'r angen i: ddileu gwahaniaethu anghyfreithlon, aflonyddu, erledigaeth ac ymddygiad arall a gaiff ei wahardd gan y Ddeddf; hybu cyfle cyfartal rhwng pobl sy'n rhannu nodwedd warchoddedig a'r rhai nad ydynt; a meithrin cysylltiadau da rhwng pobl sy'n rhannu nodwedd warchoddedig a'r rhai nad ydynt. Mae rhoi ystyriaeth ddyledus i hyrwyddo cydraddoldeb yn cynnwys: dileu neu leihau anfanteision a ddioddefir gan bobl oherwydd eu nodweddion gwarchoddedig; cymryd camau i ddiwallu anghenion o grwpiau gwarchoddedig lle mae'r rhain yn wahanol i anghenion pobl eraill; ac annog pobl o grwpiau gwarchoddedig i gymryd rhan mewn bywyd cyhoeddus neu mewn gweithgareddau eraill lle mae eu cyfranogiad yn anghymesur o isel.

#### Mesur Plant a Theuluoedd (Cymru)

Mae ymgynghoriad ar geisiadau cynllunio yn agored i'n holl ddinasyddion faint bynnag eu hoed; ni chynhelir unrhyw ymgynghoriad wedi'i dargedu a anelwyd yn benodol at blant a phobl ifanc. Yn dibynnu ar faint y datblygiad arfaethedig, rhoddir cyhoeddusrwydd i geisiadau drwy lythyrau i feddianwyr cyfagos, hysbysiadau safle, hysbysiadau yn y wasg a/neu gyfryngau cymdeithasol. Nid yw'n rhaid i bobl sy'n ymateb i ymgynghoriadau roi eu hoedran nac unrhyw ddata personol arall, ac felly ni chaiff y data yma ei gadw na'i gofnodi mewn unrhyw ffordd, ac ni chaiff ymatebion eu gwahanu yn ôl oedran.

## **Protocol ar gyfraniadau gan y cyhoedd mewn Pwyllgorau Cynllunio**

Dim ond yn llwyr yn unol â'r protocol hwn y caniateir cyfraniadau gan y cyhoedd mewn Pwyllgorau Cynllunio. Ni allwch fynnu siarad mewn Pwyllgor fel hawl. Mae'r gwahoddiad i siarad a'r ffordd y cynhelir y cyfarfod ar ddisgresiwn Cadeirydd y Pwyllgor Cynllunio ac yn amodol ar y pwyntiau a nodir islaw.

### **Pwy all siarad**

#### Cynghorau Cymuned a Thref

Gall cynghorau cymuned a thref annerch y Pwyllgor Cynllunio. Dim ond aelodau etholedig cynghorau cymuned a thref gaiff siarad. Disgwylir i gynrychiolwyr gydymffurfio â'r egwyddorion dilynol: -

(i) Cydymffurfio â Chod Cenedlaethol Ymddygiad Llywodraeth Leol. (ii) Peidio cyflwyno gwybodaeth nad yw'n:

- gyson gyda sylwadau ysgrifenedig eu cyngor, neu
  - yn rhan o gais, neu
  - wedi ei gynnwys yn yr adroddiad neu ffeil cynllunio.

#### Aelodau'r Cyhoedd

Cyfyngir siarad i un aelod o'r cyhoedd yn gwrthwynebu datblygiad ac un aelod o'r cyhoedd yn cefnogi datblygiad. Lle mae mwy nag un person yn gwrthwynebu neu'n cefnogi, dylai'r unigolion neu grwpiau gydweithio i sefydlu llefarydd. Gall Cadeirydd y Pwyllgor weithredu disgresiwn i ganiatáu ail siaradwr ond dim ond mewn amgylchiadau eithriadol lle mae cais sylweddol yn ysgogi gwahanol safbwyntiau o fewn un 'ochr' y ddadl (e.e. cais archfarchnad lle mae un llefarydd yn cynrychioli preswylwyr ac un arall yn cynrychioli manwerthwyr lleol). Gall aelodau'r cyhoedd benodi cynrychiolwyr i siarad ar eu rhan.

Lle na ddeuir i gytundeb, bydd yr hawl i siarad yn mynd i'r person/sefydliad cyntaf i gofrestru eu cais. Lle mae'r gwrthwynebydd wedi cofrestru i siarad caiff yr ymgeisydd neu asiant yr hawl i ymateb.

Cyfyngir siarad i geisiadau lle cyflwynwyd llythyrau gwrthwynebu/cefnogaeth neu lofnodion ar ddeiseb i'r Cyngor gan 5 neu fwy o aelwydydd/sefydliadau gwahanol. Gall y Cadeirydd weithredu disgresiwn i ganiatáu siarad gan aelodau o'r cyhoedd lle gallai cais effeithio'n sylweddol ar ardal wledig prin ei phoblogaeth ond y derbyniwyd llai na 5 o lythyr yn gwrthwynebu/cefnogi.

#### Ymgeiswyr

Bydd gan ymgeiswyr neu eu hasiantau a benodwyd hawl ymateb lle mae aelodau'r cyhoedd neu gyngor cymuned/tref yn annerch pwyllgor. Fel arfer dim ond ar un achlysur y caniateir i'r cyhoedd siarad pan gaiff ceisiadau eu hystyried gan Bwyllgor Cynllunio. Pan ohirir ceisiadau ac yn arbennig pan gânt eu hailgyflwyno yn dilyn penderfyniad pwyllgor i benderfynu ar gais yn groes i gyngor swyddog, ni chaniateir i'r cyhoedd siarad fel arfer. Fodd bynnag bydd yn rhaid ystyried amgylchiadau arbennig ar geisiadau a all gyfiawnhau eithriad.

### **Cofrestru Cais i Siarad**

I gofrestru cais i siarad, mae'n rhaid i wrthwynebwyr/cefnogwyr yn gyntaf fod wedi gwneud sylwadau ysgrifenedig ar y cais. Mae'n rhaid iddynt gynnwys eu cais i siarad gyda'u sylwadau neu ei gofrestru wedyn gyda'r Cyngor.

**Caiff ymgeiswyr, asiantau a gwrthwynebwyr eu cynghori i aros mewn cysylltiad gyda'r swyddog achos am ddatblygiadau ar y cais. Cyfrifoldeb y rhai sy'n dymuno siarad yw gwirio os yw'r cais i gael ei ystyried gan y Pwyllgor Cynllunio drwy gysylltu â'r Swyddog Cynllunio, a all roi manylion o'r dyddiad tebygol ar gyfer clywed y cais. Caiff y drefn ar gyfer cofrestru'r cais i siarad ei nodi islaw.**

Mae'n rhaid i unrhyw un sy'n dymuno siarad hysbysu Swyddogion Gwasanaethau Democraidd y Cyngor drwy ffonio 01633 644219 neu drwy e-bost i [registertospeak@monmouthshire.gov.uk](mailto:registertospeak@monmouthshire.gov.uk). Caiff unrhyw geisiadau i siarad a gaiff eu e-bostio eu cydnabod cyn y dyddiad cau ar gyfer cofrestru i

siarad. Os nad ydych yn derbyn cydnabyddiaeth cyn y dyddiad cau, cysylltwch â Gwasanaethau Democrataidd ar 01633 644219 i wirio y cafodd eich cais ei dderbyn.

Mae'n rhaid i siaradwyr wneud hyn cyn gynted ag sydd modd, rhwng 12 canol dydd ar y dydd Mercher a 12 canol dydd ar y dydd Llun cyn y Pwyllgor. Gofynnir i chi adael rhif ffôn y gellir cysylltu â chi yn ystod y dydd.

Bydd y Cyngor yn cadw rhestr o bobl sy'n dymuno siarad yn y Pwyllgor Cynllunio.

### **Gweithdrefn yng Nghyfarfod y Pwyllgor Cynllunio**

Dylai pobl sydd wedi cofrestru i siarad gyrraedd ddim hwyrach na 15 munud cyn dechrau'r cyfarfod. Bydd swyddog yn cynghori ar drefniadau seddi ac yn ateb ymholiadau. Caiff y weithdrefn ar gyfer delio gyda siarad gan y cyhoedd ei osod islaw:

- Bydd y Cadeirydd yn nodi'r cais i'w ystyried.
- Bydd swyddog yn cyflwyno crynodeb o'r cais a materion yn ymwneud â'r argymhelliad
- Os nad yw'r aelod lleol ar y Pwyllgor Cynllunio, bydd y Cadeirydd yn ei (g)wahodd i siarad am ddim mwy na 6 munud
- Yna bydd y Cadeirydd yn gwahodd cynrychiolydd y cyngor cymuned neu dref i siarad am ddim mwy na 4 munud.
- Bydd y Cadeirydd wedyn yn gwahodd yr ymgeisydd neu asiant a benodwyd (os yn berthnasol) i siarad am ddim mwy na 4 munud. Lle mae mwy na un person neu sefydliad yn siarad yn erbyn cais, ar ddisgresiwn y Cadeirydd bydd gan yr ymgeisydd neu'r asiant a benodwyd hawl i siarad am ddim mwy na 5 munud.
- Fel arfer cydymffurfir yn gaeth â chyfyngiadau amser, fodd bynnag bydd gan y Cadeirydd ddisgresiwn i addasu'r amser gan roi ystyriaeth i amgylchiadau'r cais neu'r rhai sy'n siarad.
- Dim ond unwaith y gall siaradwyr siarad.
- Bydd aelodau'r Pwyllgor Cynllunio wedyn yn trafod y cais, gan ddechrau gydag aelod lleol o'r Pwyllgor Cynllunio.
- Bydd y swyddogion yn ymateb i'r pwyntiau a godir os oes angen.
- Yn union cyn i'r mater gael ei roi i'r bleidlais, gwahoddir yr aelod lleol i grynhoi, gan siarad am ddim mwy na 2 funud.
- Ni all cynrychiolydd y cyngor cymuned neu dref neu wrthwynebydd/cefnogwyr neu'r ymgeisydd/asiant gymryd rhan yn ystyriaeth aelodau o'r cais ac ni allant ofyn cwestiynau os nad yw'r cadeirydd yn eu gwahodd i wneud hynny.
- Lle mae gwrthwynebydd/cefnogwr, ymgeisydd/asiant neu gyngor cymuned/tref wedi siarad ar gais, ni chaniateir unrhyw siarad pellach gan neu ar ran y grŵp hwnnw pe byddai'r cais yn cael ei ystyried eto mewn cyfarfod o'r pwyllgor yn y dyfodol heblaw y bu newid sylweddol yn y cais.
- Ar ddisgresiwn y Cadeirydd, gall y Cadeirydd neu aelod o'r Pwyllgor yn achlysurol geisio eglurhad ar bwynt a wnaed.
- Mae penderfyniad y Cadeirydd yn derfynol.
- Wrth gynnig p'un ai i dderbyn argymhelliad y swyddog neu i wneud diwygiad, bydd yr aelod sy'n gwneud y cynnig yn nodi'r cynnig yn glir.
- Pan gafodd y cynnig ei eilio, bydd y Cadeirydd yn dweud pa aelodau a gynigiodd ac a eiliodd y cynnig ac yn ailadrodd y cynnig a gynigwyd. Caiff enwau'r cynigydd a'r eilydd eu cofnodi.
- Bydd aelod yn peidio pleidleisio yng nghyswllt unrhyw gais cynllunio os na fu'n bresennol drwy gydol cyfarfod y Pwyllgor Cynllunio, y cyflwyniad llawn ac ystyriaeth y cais neilltuol hwnnw.
- Bydd unrhyw aelod sy'n ymatal rhag pleidleisio yn ystyried p'un ai i roi rheswm dros ei (h)ymatal.
- Bydd swyddog yn cyfrif y pleidleisiau ac yn cyhoeddi'r penderfyniad.

### **Cynnwys yr Arweithiau**

Dylai sylwadau gan gynrychiolydd y cyngor tref/cymuned neu wrthwynebydd, cefnogwr neu ymgeisydd/asiant gael eu cyfyngu i faterion a godwyd yn eu sylwadau gwreiddiol a bod yn faterion cynllunio perthnasol. Mae hyn yn cynnwys:

- Polisiâu cynllunio cenedlaethol a lleol perthnasol
- Ymddangosiad a chymeriad y datblygiad, gweddllun a dwysedd

- Cynhyrchu traffig, diogelwch priffordd a pharcio/gwasanaethu;
- Cysgodi, edrych dros, ymyriad sŵn, aroglau neu golled arall amwynder.

Dylai siaradwyr osgoi cyfeirio at faterion y tu allan i gylch gorchwyl y Pwyllgor Cynllunio, megis:

- Anghydfod ffiniau, cyfamodau a hawliau eraill eiddo
- Sylwadau personol (e.e. cymhellion neu gamau gweithredu'r ymgeisydd hyd yma neu am aelodau neu swyddogion)
- Hawliau i olygfeydd neu ddibrisiant eiddo.

# Public Document Pack Agenda Item 3

## MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Planning Committee held  
at Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA and remote attendance  
on Tuesday, 4th October, 2022 at 2.00 pm

**PRESENT:** County Councillor Phil Murphy (Chair)  
County Councillor Dale Rooke (Vice Chair)

County Councillors: Jill Bond, Fay Bromfield, Emma Bryn, Jan Butler,  
Ben Callard, John Crook, Steven Garratt, Meirion Howells,  
Su McConnel, Jayne McKenna, Maureen Powell, Sue Riley and  
Ann Webb

### OFFICERS IN ATTENDANCE:

Craig O'Connor	Head of Planning
Philip Thomas	Development Services Manager
Andrew Jones	Development Management Area Team Manager
Amy Longford	Development Management Area Team Manager
Joanne Chase	Solicitor
Richard Williams	Democratic Services Officer

### APOLOGIES:

County Councillor Tony Easson

#### 1. Declarations of Interest

None received.

#### 2. Confirmation of Minutes

The minutes of the Planning Committee meeting dated 6<sup>th</sup> September 2022 were confirmed and signed by the Chair.

#### 3. Application DM/2021/01950 - Proposed construction of a stand alone nursery unit, access path and use of off-site existing car park area to be used as parent drop off/pick up facility. Trellech Primary School, Monmouth Road, Trellech.

We considered the report of the application and late correspondence which was recommended for approval subject to the conditions outlined in the report.

The local Member for Mitchel Troy and Trellech United, also a Planning Committee Member, outlined the following points:

- The modern building will be an upgrade to the current building being used.
- The proposed building will benefit families within Trellech and within the wider catchment providing better access to nursery provision and affordable childcare.

## MONMOUTHSHIRE COUNTY COUNCIL

### Minutes of the meeting of Planning Committee held at Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA and remote attendance on Tuesday, 4th October, 2022 at 2.00 pm

- There were no objections to the application by local residents.
- The proposed building can easily be accommodated on the site without having a detrimental impact on play provision at the Primary school. Also, there will be no detrimental impact to village and residents.
- Having the nursery and primary school will be beneficial during the transition from nursery into Foundation phase and Key Stage 1.
- It will be easier for parents to access one site if they have children attending nursery and primary school at the same time.
- Parking matters raised have been mitigated by creating additional parking provision and having staggered start and finish times.
- The site will be much safer with children and staff being located on a secure gated and fenced site.
- The two local Members support approval of the application.

Having considered the report of the application and the views expressed, the following points were noted:

- A designated area for bicycle parking would not require planning consent.
- Further solar panels could be provided on the roof of the proposed building under permitted development rights.
- The nursery has a capacity of 24 pupils and there are no plans to increase this figure.
- In terms of the potential for air / ground source heat pumps, currently, there are no policy levers for these devices to be insisted upon as part of a development. However, as an Authority, we can encourage and promote these features.
- With regard to the opening hours, condition 3 could be amended or removed which would allow for wider use of the proposed building such as evening use for the community.

It was proposed by County Councillor A. Webb and seconded by County Councillor B. Callard that application DM/2021/01950 be approved subject to the conditions outlined in the report but with the removal of condition 3.

Upon being put to the vote the following votes were recorded:

In favour of the proposition	-	15
Against the proposition	-	0
Abstentions	-	0

## MONMOUTHSHIRE COUNTY COUNCIL

### Minutes of the meeting of Planning Committee held at Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA and remote attendance on Tuesday, 4th October, 2022 at 2.00 pm

The proposition was carried.

We resolved that application DM/2021/01950 be approved subject to the conditions outlined in the report but with the removal of condition 3.

#### **4. Application DM/2022/00395 - New two-storey extension to side of property to provide annex accommodation. 1 Pipistrelle Court, Llanfoist, Abergavenny, NP7 9NF.**

We considered the report of the application and late correspondence which was recommended for approval subject to the conditions outlined in the report.

The local Member for Llanfoist and Govilon, also a Planning Committee Member, outlined the following points:

- There has been local opposition to the proposed development. Llanfoist Fawr Community Council is also opposed to this scheme.
- The proposed extension will be very close to the neighbouring property, just under two metres from the boundary wall.
- The residents of the neighbouring property will be looking out onto a large wall creating a visual impact.
- The addition of a two-storey extension along a bat corridor may have a negative effect on the local bat population.
- The development is considered to be too large.
- The local Member supports refusal of the application.

Having considered the report of the application and the views expressed, the following points were noted:

- The structural integrity of the wall and any works undertaken in its proximity would need to be subject to the provisions of the Party Wall Act and fall outside of Planning Committee's remit. If the application was approved, an informative could be added to refer to the Party Wall Act.
- The proposed extension would be 7.6metres to the ridge and 4.1 metres to the eaves.
- Condition 6 relates to hard and soft landscaping works being undertaken on the site. In addition, condition 7 requires a landscape maintenance programme for a minimum of five years.

## MONMOUTHSHIRE COUNTY COUNCIL

### Minutes of the meeting of Planning Committee held at Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA and remote attendance on Tuesday, 4th October, 2022 at 2.00 pm

- The dark corridor has been considered by both Natural Resources Wales (NRW) and Monmouthshire County Council's Ecologist. The amendments to the application and planting are considered to be acceptable with the impact also being acceptable.
- Planning Officers considered that there are mitigating factors why the gable end is not an overbearing development and would not cause unacceptable harm to third party privacy.

The local Member summed up as follows:

- Had the original planning conditions been met for the development the trees that would have been planted would have to be removed for the extension to be built. In response, the Development Management Area Manager stated that whilst the application differs to the original approval, the application presented today has not affected the officer recommendation which is for approval.

It was proposed by County Councillor M. Powell and seconded by County Councillor J. McKenna that application DM/2022/00395 be approved subject to the conditions outlined in the report and that an informative be added referencing the Party Wall Act.

Upon being put to the vote the following votes were recorded:

For approval	-	12
Against approval	-	3
Abstentions	-	0

The proposition was carried.

We resolved that application DM/2022/00395 be approved subject to the conditions outlined in the report and that an informative be added referencing the Party Wall Act.

#### **5. Application DM/2022/00696 - Proposed single storey front extension. Arosfa, Llanfair Discoed, Monmouthshire, NP16 6LY.**

We considered the report of the application and late correspondence which was recommended for refusal for the three reasons outlined in the report.

The application had been presented to Planning Committee on the 6th September 2022 with a recommendation for approval. However, the Committee had been minded to refuse the application and had resolved that the application be re-presented to Planning Committee with appropriate reasons for refusal.

Upon being put to the vote the following votes were recorded:

For refusal	-	12
Against refusal	-	1
Abstentions	-	1



**MONMOUTHSHIRE COUNTY COUNCIL**

**Minutes of the meeting of Planning Committee held  
at Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA and remote attendance  
on Tuesday, 4th October, 2022 at 2.00 pm**

The proposition was carried.

We resolved that application DM/2022/00696 be refused for the three reasons outlined in the report.

**The meeting ended at 3.00 pm.**

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**Application Number:** DM/2019/01684

**Proposal:** Change of use of agricultural land to B8 storage

**Address:** Land to the south of Bryn Garage, B4598 Llangattock Lodge To Kemeys Road, Penpergwm, Monmouthshire

**Applicant:** Mr Gareth Hockey

**Plans:** BG1 - Issue 2, BG2 - , BG3 - , BG4 - , BG5 - Issue 2

## **RECOMMENDATION: APPROVE**

Case Officer: Mr David Wong

Date Valid: 16.10.2019

**This application is presented to Planning Committee due to a request by the ex-ward member, an objection from the local community council and there are objections from five households**

### **1.0 APPLICATION DETAILS**

#### 1.1 Site Description

1.1.1 Bryn Garage is located off the B4598 at Penpergwm. It is a well-established commercial business for repair and testing of private and commercial vehicles. According to the submission, the applicant has developed a motor sport and exhibition business which requires the use of articulated trailers and storage of equipment. This application is seeking full planning permission for a change of use of former agricultural land to B8 storage.

1.1.2 Initially, it was proposed to change the use of two separate areas for storage within the fields adjacent to Bryn Garage, which is also under the ownership of the applicant. However, the site is in the open countryside and is not an allocated employment site as defined within the Local Development Plan (LDP). As such, the proposal would have been contrary to current LDP policies i.e. LC1 and LC5. Having explained officer concerns to the applicant, a revised scheme was submitted to replace the initial proposal.

1.1.3 The latest scheme shows the proposed storage activity closer to the existing workshop, parking area and associated structures. It involves the creation of a new hardstanding as an extension of the existing surfaced area, repositioning of the existing storage building, the placement of six articulated trailers and five storage units on a new hardstanding together with new planting and fencing to improve visual cover of the storage units as viewed from the wider landscape and residential areas.

1.1.4 It is set out that no machinery will be used on the proposed storage area other than forklift or lorry movements, and staff will usually work between 8am and 5.30pm. The applicant indicated that there were 12 events in 2021 and that was the time when there was movement; the events are held off-site. No additional lighting will be added on site; there is already one light covering the area. Also, there would be no additional commercial waste produced as a result and the waste from the current activities is (for the past 5 years) collected by Thomas Waste, and the storage containers will not be stacked.

1.1.5 There is no proposed change to the access to the site and the proposed storage site would use the same access point. The proposed area will be sufficient to turn vehicles within the site as well as being able to park all exhibition event trailers. According to the neighbour written

representations, it is understood that the applicant had been using part of the field as overspill/temporary storage over the past few years.

1.1.6 At the time of the officer site inspection, the majority of hardstanding was already formed. It is proposed to plant a new hedge along the northern site boundary, behind the existing residential properties; this will also extend along the eastern site boundary. The remaining agricultural field would now be fenced with post /rail; a farm gate would be installed to allow access to the remaining agricultural field.

## **2.0 RECENT PLANNING HISTORY (if any)**

<b>Reference Number</b>	<b>Description</b>	<b>Decision</b>	<b>Decision Date</b>
None			

## **3.0 LOCAL DEVELOPMENT PLAN POLICIES**

### **Strategic Policies**

S13 LDP Landscape, Green Infrastructure and the Natural Environment  
S16 LDP Transport  
S17 LDP Place Making and Design

### **Development Management Policies**

DES1 LDP General Design Considerations  
EP1 LDP Amenity and Environmental Protection  
EP3 LDP Lighting  
GI1 LDP Green Infrastructure  
LC1 LDP New Built Development in the Open Countryside  
LC5 LDP Protection and Enhancement of Landscape Character  
MV1 LDP Proposed Developments and Highway Considerations  
NE1 LDP Nature Conservation and Development

### **Supplementary Planning Guidance**

MCC Green Infrastructure SPG 2015

## **4.0 NATIONAL PLANNING POLICY**

### **Future Wales - the national plan 2040**

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales - the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

### **Planning Policy Wales (PPW) Edition 11**

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant

duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

## Technical Advice Notes

TAN12 - Design

### 5.0 REPRESENTATIONS

#### 5.1 Consultation Replies

**Llanover Community Council** – Llanover CC originally approved this application subject to certain conditions. However, their councillors have since seen the well-argued objection of residents living adjacent to this site and now wish to object to it.

**MCC Highways** – Initially, the applicant has provided insufficient detail in respect of the surface finish of the proposed parking areas and the internal access road arrangement. Additional information was subsequently provided by the applicant. Following a review of the additional information the highway authority has no further comments or observations to add to those previously offered on the 05/22/2019.

**MCC Environment Health** – Details of how issues of noise, light and waste will be managed so that the amenity of the locality will be protected including that of neighbouring residents were requested. Additional information was subsequently provided by the applicant. Based on the submitted information, I am of the opinion that I am unable to substantiate an objection to this application.

**MCC Landscape and Urban Design Officer** – The scheme has been amended to address the initial visual concerns of the application. The applicant has since provided sufficient information to show how a landscape scheme will be laid out to seek to mitigate for visual impact, provide GI connectivity and define boundaries for the change of use. Further information relating to establishment and aftercare has not been submitted however this can be provided as a condition should the application be approved.

LREC Search Results - No significant ecological record identified.

#### 5.2 Neighbour Notification

There are objections from five households and they are summarised below:

The site is in the open countryside. The proposal conflicts with the LDP.

This is not a retrospective application. The site has not been used as a formal storage use historically.

The noise associated with the proposal is not acceptable.

Granting permission for B8 conversion will automatically give carte blanche for future conversion to B1 Business. If this change is granted then this will open up the site to an automatic conversion to B1 (Business).

Access/egress from this proposed development would only increase the hazardous nature of this road.

There is light pollution from the security floodlights which remain on throughout the night, this will only worsen.

Noise pollution from moving vehicles. What time will vehicles be moving?

The land is contaminated and will be further contaminated by the proposal.

There is no guarantee that this activity will not increase in the future. How many HGVs, trailers, buses, and other plant and equipment will be stored? There is no indication of this in the proposal.

The number of on-site parking spaces are not shown on the plans.

Planning permission was dismissed previously for a dwelling because it was not suited to the nature and characteristics of the locality. This proposal is out of totally out of character to the open countryside.

The majority of the works have already been carried out without planning permission.

An ecological survey should be required.

### 5.3 Local Member Representations

Former County Councillor S. Jones – requested that this application be presented to Planning Committee.

## **6.0 EVALUATION**

### **6.1 Principle of Development**

6.1.1 The land in question is immediately adjoining the garage business. The site is in the open countryside and is a not part of an allocated employment site as defined within the LDP. Thus, there is a presumption against new built development. However, it is acknowledged that Bryn Garage is an existing and well established commercial business at this location, and the applicant has developed a motor sport and exhibition business which requires the use of event trailers and storage of equipment that cannot be accommodated on the existing site. Consequently, it is not the establishment of a new commercial site, rather it is the proposed expansion of an existing business. Therefore given the specific circumstances, there is no objection in principle, subject to detailed planning material considerations including local impacts on amenity and landscape.

### **6.2 Landscape / Design**

6.2.1 Following amendment of the scheme, the applicant had subsequently submitted a revised proposal so that the proposed storage activity will now be closer to the existing workshop, parking and associated structures of the garage business. This application was assessed by the Council's Landscape and Urban Design Officer who advised that the latest scheme has addressed his initial visual concerns and offered no objection.

6.2.2 The site is in the open countryside but is grouped with other commercial properties as well as a row of residential properties. Under the latest scheme, it is considered that the consolidation of the extended area closer to the existing workshop, parking and associated structures of the garage business would minimise the visual intrusion of formalised vehicle storage within the open countryside and valued landscape setting. The site is behind a row of existing residential properties when viewed along the B4598 while to the south the site is screened by the existing mature vegetation along the A40. There is a public footpath on the neighbouring field to the west of the site, behind a hedgerow and mature trees. Glimpses of the site could be viewed from the public footpath but the proposal is read as an extended operation of the existing commercial site. Therefore, the proposal will have no unacceptable adverse impact on wider landscape (in accordance with the thrust of LDP policies DES1, LC1 and LC5).

### **6.3 Biodiversity**

6.3.1 Works have already started on site and a significant amount of hardstanding is already in place. No significant ecological features have been identified on site and no significant ecological records have been identified via desk top research. As part of the application, a new landscaping scheme is proposed along the northern and western boundaries (of the proposed area for the change of use) to improve green infrastructure connectivity of the site to the wider area. There is already existing external high-level lighting serving the garage site. The applicant confirms that no additional lighting would be added on the extended site as they already have one light covering the area. In relation to biodiversity net gain enhancement measures, this element can be managed via the use of a planning condition. Given the above, the proposal is in compliance with LDP Policy NE1.

### **6.4 Impact on Amenity**

6.4.1 The site is in the open countryside but Bryn Garage is already a well-established commercial business for repair and testing of private and commercial vehicles. Based on the nature of the business, it is reasonable to expect the regular movement of vehicles and the use of related

machinery for the testing and repairing of vehicles during working hours. The proposal is for a B8 storage area and no machinery will be used on that extended part of the site. Therefore, the main source of noise will be primarily from the movement of vehicles. As well as a working commercial garage business on site, the site is located some 130m from the A40 trunk road. Therefore, the baseline of the background noise level on this site is significantly higher than a 'normal' countryside location. The Council's Environment Health Department was consulted and has raised no objection to this application.

6.4.2 The applicant suggests that in 2021, twelve events took place. However, from a planning perspective, the number of events may change (involving either an increase or reduction) but it would be unreasonable to impose a condition restricting the number of events the business can operate; it is equally very difficult to enforce as the movements may not be associated with the motorsport events. However, it is considered reasonable to manage the site by restricting the operational hours to between 8am and 5.30pm, Monday to Friday, which is the working hours of the garage business. If the applicant wishes to extend the operation hours in the future, that application would be considered on its merits. This 'time' condition will manage the noise levels to be within sociable hours.

6.4.3 Also, a condition will be imposed to manage the scale of the storage operation i.e. no more than six event trailers and five storage containers would be permitted to be kept on site. Should the requirement for storage increase due to additional demand, that would need a fresh application that would be treated on its merits. A neighbour expressed concerns that other vehicles, plant and equipment will be stored on site. It would not be reasonable (and would be very challenging) to enforce which other vehicles or plant and equipment can be stored on site. However, it would be reasonable to impose a height restriction to manage the impact (i.e. any overbearing or over-shadowing impact) of the storage being carried out on site. Based on the submitted information, the height of the existing storage building is 4.3m and the event trailer is approximately 3.9m. Therefore, the overall height will be limited to 4.3m.

6.4.4 A neighbour has highlighted that there is light pollution from the security floodlights which remain on throughout the night. It is noted that there is already existing external high-level lighting serving the garage site. The applicant has confirmed that no additional lighting will be added on this extended part of the site as there is already one light covering this area. A lighting condition will be imposed to restrict further external lighting serving the proposed storage area.

## **6.5 Access / Highway Safety**

6.5.1 There is no change to the access of the site and the proposed storage site would use the same access point as Bryn garage. The result of this application would increase commercial vehicular movements into and out of the site. Although the number of on-site parking spaces are not shown on the plans, the Council's Highways Department has no objection to the application but did query about the internal access road arrangement for the two separate areas proposed for storage within the larger field (i.e. the initial submission). However, the latest scheme shows that the proposed storage area would be closer to the existing workshop, parking and associated structures. Therefore, Highways have no further comments except wherever feasible, permeable paving or other forms of sustainable drainage systems should be specified. Given the above, the proposal is in accordance with LDP Policy MV1.

## **6.6 Foul Drainage**

6.6.1 Under the Habitats Regulations, where a plan or project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, and where it is not directly connected with or necessary to the management of the site previously (designated pursuant to EU retained law) the competent authority must carry out an appropriate assessment of the implication of the plan or project in view of the site's conservation objectives. Natural Resources Wales has set new phosphate standards for the river SACs in Wales. Any proposed development within the SAC catchments that might increase the amount of phosphate within the catchment could lead to additional damaging effects to the SAC features and therefore such proposals must be screened through a HRA to determine whether they are likely to have a significant effect on the SAC condition.

6.6.2 This is an application for a B8 storage use and there will be no additional commercial waste produced as a result, and the waste from the current activities has for the past 5 years been collected by a private commercial waste collection company. There would be no additional phosphate waste caused as a result of the extended storage area.

### **6.7 Surface Water Drainage**

6.7.1 From January 7th 2019, all detailed applications for residential development or where the construction area is 100m<sup>2</sup> or more, will require Sustainable Drainage Systems for surface water (SuDS), to be designed and built in accordance with the statutory standards. The SuDS Approving Body (SAB) system is a separate method from the planning application process and an informative will be used to inform the applicant accordingly.

### **6.8 Environmental Issues**

6.8.1 There is no known contamination record identified. Further environmental information detailing how issues of noise, light and waste will be managed was submitted for consideration. According to the submission, no machinery will be used on the proposed storage area other than forklift trucks or lorry moving, and the staff usually work between 8am and 5.30pm. The applicant indicated that there were twelve events in 2021 and that was the time when there would have been experience of vehicle movements. No additional lighting will be added on site. As already noted, no additional commercial waste would be produced. Based on the submitted information, the Council's Environmental Health Department was unable to substantiate an objection to this application; no conditions were suggested.

6.8.2 It is considered reasonable to manage the site in respect of local amenity by restricting the operational hours to between 8am and 5.30pm, Monday to Friday, which is the working hours of the garage business. If the applicant wishes to extend the operation hours in the future, that would require a fresh permission and any subsequent application would be considered on its merits.

### **6.9 Response to the Representations of Third Parties and/or Community Council**

The Llanover Community Council and five households objected to the application. Please refer to the relevant section of this report for the following topics:

The overall principle of the proposal – section 6.1 and 6.2

Impact on Amenity – section 6.4 and 6.9

Access – section 6.5

Contamination – section 6.9

Site management – section 6.4 and 6.9

Ecology – section 6.3

A neighbour believes that by granting permission for Class B8 of the site will automatically give permission for future conversion to B1 Business. The permitted change from Class B8 to Class B1 would be subject to total floorspace being no greater than 235sqm of floorspace in the building. However, having regard to the Welsh Government Circular 016/2014 it is not considered reasonable or necessary to apply a condition that remove the right to move from B8 to B1 (Business). Any future business (B1) use would need planning permission for a new building and would be considered on its merits in the event such a proposal was ever submitted to the Local Planning Authority.

A planning permission was dismissed previously for a dwelling. However, the nature of this proposal is different to that application, and each application must be treated on its own merits.

It is noted that a significant amount of work has already carried out prior to the submission of the planning application. The applicant was advised not to carry on anymore work on site until the application is determined and work proceeded at the applicant's risk.

### **6.10 Well-Being of Future Generations (Wales) Act 2015**

6.10.1 The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WCFG Act). In reaching this



recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

## **6.11 Conclusion**

6.11.1 For the reasons detailed above in this report, having regard to the relevant policies and all other material considerations the proposed development is considered to be acceptable subject to the conditions set out below.

## **7.0 RECOMMENDATION: APPROVE**

1 This development shall be begun within 5 years from the date of this permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

2 The development shall be carried out in accordance with the list of approved plans set out in the table below.

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

3 All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised Codes of Good Practice. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority.

REASON: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs and ensure the provision afforded by appropriate Landscape Design and Green Infrastructure LC5, DES 1, S13, and GI1 and NE1 .

4 A schedule of landscape maintenance for a minimum period of five years shall be submitted to and approved by the Local Planning Authority prior to works commencing and shall include details of the arrangements for its implementation. All planting comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

REASON: To ensure the provision of amenity afforded by the proper maintenance of existing and / or new landscape features.

5 Prior to the commencement of the hereby approved works for the change of use of land to Use Class B8, details of Biodiversity net benefit measures shall be submitted on plan, identifying location, positioning and specification which provides net benefit. The scheme shall provide for the future management and an implementation timetable. The scheme shall be submitted to and approved in writing by the Local Planning Authority. The change of use shall only proceed in accordance with the approved plans and shall be retained as such thereafter.

REASON: To provide biodiversity net benefit and ensure compliance with PPW 11, the Environment (Wales) Act 2016 and LDP policy NE1.

6 Notwithstanding the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification) no lighting or lighting fixtures shall be installed on the buildings or in the curtilage of the site until an appropriate lighting plan which includes low level PIR lighting, provides detail of lighting type, positioning and

specification, and ensures that roosting and foraging/commuting habitat for bats is protected from light spill, has been agreed in writing with the Local Planning Authority.

Reason: To safeguard foraging/commuting habitat of Species of Conservation Concern in accordance with Section 6 of the Environment Act (Wales) 2016 and LDP policies EP3 and NE1.

7 The site shall not be used in operation for the approved purposes outside the following times: 8am and 5.30pm, Monday to Friday.

REASON: In the interests of amenity and to ensure compliance with LDP Policy EP1.

8 The approved layout shall be adhered to at all times. There shall be no more than 6 event trailers and 5 storage containers on the site at any one time.

REASON: To safeguard the landscape amenities of the area and to ensure compliance with the approved plans.

9 The hereby approved storage layout shall be adhered to and shall remain as such thereafter. The maximum height of all trailers, equipment, plant or vehicles stored on site shall be 4.2m.

REASON: To safeguard the landscape amenities of the area and the amenity of the neighbouring properties.

10 Prior to commencement of the hereby approved works in relation to the change of use of land to Use Class B8, details of a restoration plan of the adjoining agricultural field shall be submitted. The scheme shall provide for the future management and an implementation timetable. The scheme shall be submitted to and approved in writing by the Local Planning Authority. The change of use shall only proceed in accordance with the approved plans and shall be retained as such thereafter.

REASON: In the interests of visual amenity, LDP policy DES1.

11 In the event the storage use hereby approved ceases then all storage containers (as referred to in Condition 8) shall be removed from the site in their entirety within 3 months of the cessation of the use.

REASON: To safeguard the landscape amenities of the area and the amenity of the neighbouring properties.

## **INFORMATIVES**

1 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

2 Please note that Bats are protected under The Conservation of Habitats and Species (Amendment) Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended). This protection includes bats and places used as bat roosts, whether a bat is present at the time or not. If bats are found during the course of works, all works must cease and Natural Resources Wales contacted immediately. Natural Resources Wales (NRW) (0300 065 3000).

3 All birds are protected by the Wildlife and Countryside Act 1981. The protection also covers their nests and eggs. To avoid breaking the law, do not carry out work on trees, hedgerows or buildings where birds are nesting. The nesting season for most birds is between March and September.

4 It should be brought to the attention of the applicant that in the event of a new or altered vehicular access being formed, the requirements of Section 184 of the Highways Act 1980 must be acknowledged and satisfied. In this respect the applicant shall apply for permission pursuant to Section 184 of the Highways Act 1980 prior to commencement of access works via MCC Highways.

5 Following the implementation of the Sustainable Drainage (Approval and Adoption) Order 2018 the proposed development will require a sustainable drainage system (SuDS) designed in accordance with the Welsh Government's Standards. The SuDS scheme will require approval by the SuDS Approving Body (SAB) prior to any construction work commencing on site. It is recommended that the applicant approach the SAB for pre-application advice prior to formal submissions to the LPA as the SAB requirements can affect site layout. Details and application forms can be found at <https://www.monmouthshire.gov.uk/sab>. The SAB is granted a period of at least seven weeks to determine applications. In practice revisions are normally required to proposals. This extends the time period required. If for any reason you believe your works are exempt from the requirement for SAB approval, I would be grateful if you would inform us on [SAB@monmouthshire.gov.uk](mailto:SAB@monmouthshire.gov.uk) so we can update our records accordingly.

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**Application Number:** DM/2020/00762

**Proposal:** Full planning application for the change of use of the visitor centre at Llandegfedd, to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00442

**Address:** Visitor Centre, Llandegfedd Visitor Centre, Croes-gweddyn Road, Coed-y-Paen, Monmouthshire

**Applicant:** Mr Mark Davies

**Plans:** Bat Survey Ecological Impact Assessment - Version 5, Other Otter Report - , Location Plan Site Location Plan

## **RECOMMENDATION: APPROVE**

Case Officer: Ms Kate Bingham  
Date Valid: 13.07.2020

### **1.0 APPLICATION DETAILS**

#### **1.1 Site Description**

This application has been submitted on behalf of Dwr Cymru Welsh Water (DCWW) in respect of the change of use of the visitor centre at the Llandegfedd Reservoir to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00442. The application is submitted to grow the water and land-based activities at the site for all users under Dwr Cymru Welsh Water's strategy for health and wellbeing in conjunction with Welsh Government.

The site is situated on the eastern side of the Llandegfedd Reservoir. The reservoir sits at an approximate elevation of 80m and comprises 174ha of standing open water. The facility serves a variety of recreational interests, including water sports, in addition to nature conservation responsibilities and its primary function as a public water supply reservoir. The reservoir itself is designated as a Site of Special Scientific Interest (SSSI) of importance for its wintering bird population and the area around the reservoir includes grassland, important for feeding and roosting wildfowl, woodland and scrub.

Due to the building's use as a visitor centre, the site is positioned adjacent to the reservoir, to the south of the water sports facility, with the internal access road and an area of hardstanding providing access down towards the reservoir situated along the building's western elevation.

The reservoir, built in the 1960s, straddles the boundary between Monmouthshire and Torfaen and is accessible from the main road network serving Usk/Pontypool/Caerleon via a network of minor roads.

The site is currently occupied by the two-storey visitor centre and associated landscaping. The building itself measures 550m<sup>2</sup> and sits within the wider site which benefits from a number of full planning permissions for various reservoir-related uses. The topography slopes gradually from east-to-west down towards the reservoir.

#### **1.2 Value Added**

Various additional ecological and noise surveys were requested and supplied in order to enable NRW, Environmental Health and the Council's Biodiversity Officer to accurately assess the proposal.

Over-wintering bird surveys undertaken in 2021/22 were submitted to inform the application.

Proposals to hold events with external music have been removed from the management plans in response to concern regarding local residential amenity and impact on the SSSI.

### 1.3 Proposal Description

The visitor centre currently benefits from planning permission under ref no. DC/2012/00442 for a 'Proposed visitor centre incorporating café and exhibition space, ranger offices and facilities for anglers'. Condition 7 of the approved permission reads 'The premises shall not be used for the approved purposes outside the times of 7:30am to 9:00pm.'

It is proposed under this application to increase the use of the visitor centre so it can be used by DCWW for a wider array of uses as well as extending the operational hours of the site from 06:00 to 00:00.

Currently the Visitor Centre operates as a first point of information for visitors to site - offering a Grab and Go coffee shop facility which also acts as a point for enquiries, bookings and issue of permits for fishing, hire of boats etc. In addition, the building houses the Waterside Café facility with over 100 covers both inside and outside on the wrap around balcony. The café offers hot and cold food and drinks. In addition, management and administrative staff are housed in the building as well as storage and welfare facilities. The café facilities are open to the public at the same times as the current site opening hours. These uses are all listed under approved permission DC/2012/00442.

In addition to maintaining and growing the activities described above, it would be intended that the extension of the use would allow for the exclusive hire of the Café and Grab and Go areas outside the normal hours of operation of the site (Currently 9am - 6pm). This would allow for the hire of these spaces for a range of meetings, functions and similar activities such as those below:

- Meetings; DCWW employee meetings ranging from team meetings, management and project meetings to Board of Directors meetings.
- External groups - the spaces could be used as a hireable space for meetings and events held by a range of groups.
- Sporting Groups - as part of pre or post activity socialising.
- General public; functions for local organisations and family occasions.
- Community engagement.
- Wildlife / environmental rambles and other specialist groups.
- Organised events and displays.

It is also proposed that the balcony of the Visitor Centre is used as an overspill area in conjunction with the use of the meeting facilities. The terrace would not be accessible for functions after 11pm and there would be no live or recorded music in outdoor areas.

The above uses would not require any alteration to the building itself, only an extension to the use of the building. Any functions would be catered for by existing facilities i.e. on-site catering facilities, toilets and car parking areas.

There is a concurrent application to also extend the use of the Watersports Centre submitted under planning application no. DM/2020/00763. The visitor centre and water sports facilities would be used independently throughout the year and for the majority of events, although they could be used concurrently should a larger event be required to use the entire reservoir site, although this is likely to be infrequent.

## **2.0 RELEVANT PLANNING HISTORY (if any)**

<b>Reference Number</b>	<b>Description</b>	<b>Decision</b>	<b>Decision Date</b>
DM/2018/01199	Variation of condition No. 6 and No. 7 of planning permission DC/2012/00317.	Withdrawn	03.06.2019
DM/2020/00035	Removal of condition 6 and to vary condition 7 (to extend opening hours to 6:00am to 00:00am) relating to planning application DC/2012/00317.	Withdrawn	18.06.2020
DM/2020/00036	Modification of condition no. 7 of planning permission DC/2012/00442 (hours of operation).	Withdrawn	18.06.2020
DM/2020/00763	Full planning application for the change of use of the water sports facility at Llandegfedd to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00317	Pending Determination	
DC/2016/01355	Addition of external steel stair to the north west elevation of the building. (Relating to previous planning application DC/2012/00317).	Approved	28.11.2016
DC/2016/01011	Minor changes to the elevations to previous application DC/2015/01039.	Approved	15.09.2016
DC/2013/00996	Discharge of condition 3, 6 and 9 of application DC/2012/00442	Split Decision	26.01.2015
DC/2012/00442	Proposed visitor centre incorporating cafe and exhibition space, ranger offices and facilities for anglers.	Approved	03.10.2012
DM/2018/00718	DCWW wish to provide a shed for use by the Angling Club to store equipment and to act as a weighing station during competitions.	Approved	25.06.2018

DC/2015/01039	A new boat store and ranger maintenance buildings are required to support a recently completed Water Sports and Visitor Centre for Welsh Water at Llandegfedd Reservoir. These will be two detached buildings located adjacent to the existing buildings. A new play area is also proposed that will enhance the facilities available to children. This will be located within existing amenity grassland and will be broken in to two small 'play spots'.	Approved	21.12.2015
DC/2016/00742	Discharge of condition 7 (details of play equipment) from previous application DC/2015/01039 for new boat store and ranger maintenance buildings	Approved	19.07.2016
DC/2016/01011	Minor changes to the elevations to previous application DC/2015/01039.	Approved	15.09.2016

### **3.0 LOCAL DEVELOPMENT PLAN POLICIES**

#### **Strategic Policies**

S8 LDP Enterprise and Economy  
S10 LDP Rural Enterprise  
S11 LDP Visitor Economy  
S13 LDP Landscape, Green Infrastructure and the Natural Environment  
S16 LDP Transport  
S17 LDP Place Making and Design

#### **Development Management Policies**

EP1 LDP Amenity and Environmental Protection  
EP3 LDP Lighting  
MV1 LDP Proposed Developments and Highway Considerations  
DES1 LDP General Design Considerations  
GI1 LDP Green Infrastructure  
NE1 LDP Nature Conservation and Development

### **4.0 NATIONAL PLANNING POLICY**

#### **Future Wales - the national plan 2040**

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales - the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

#### **Planning Policy Wales (PPW) Edition 11**



The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

## **5.0 REPRESENTATIONS**

### **5.1 Consultation Replies**

#### **Torfaen County Borough Council – *Initial comments.***

The following is Torfaen County Borough Council's response to the consultation. The response relates to both applications:

The Council's Highway Officer does not object to the proposed scheme and has stated that the highway network within Torfaen County Borough Council that serves the site is satisfactory to accommodate the use.

The Council's Public Health Team have stated there is the potential for events to create noise nuisances which could have a detrimental effect on the amenity of Torfaen residents. The Officer has recommended that a Noise Impact assessment is carried out in line with TAN 11 and BS4142 2014 (2) and, if necessary, should include proposals for mitigating excessive noise. Alternatively, they have recommended that a condition could be set by the LPA to limit event noise levels at residential homes to not exceed the current L90.

The Ward Councillor has raised concerns in regard to the increased levels of traffic, noise disturbance, the over-development of the reservoir as an SSSI site and the potential safety issue of an /entertainment venue with an alcohol license within proximity to the body of water. They state that the country lane is used by cyclists and pedestrians, with no available footpaths the increase in traffic would increase the risk for all users.

The Council's Ecologist wishes to register a holding objection and has requested that the applicant submits further information. The Council's Ecologist has requested further ecological survey work to appropriately assess the impact of the proposals upon the designated features of both the Llandegfedd Reservoir (SSSI) and the Severn Estuary Special Protection Area (SPA)/Ramsar Site. They have advised that the Ecology Report (Ricardo Energy and Environment 2020) does not provide sufficient detail by which to assess the impact of the proposals upon a site of national importance and another of international importance, and therefore fails to satisfy the requirements of national planning policy. Full details are included in the consultations section below.

An objection is raised to the development due the lack of information in relation to the ecological survey as per the comments from the Council's Ecology Officer.

In summary, it is considered that the Ecological assessment carried out does not provide sufficient detail to assess the impact of the proposals upon the sites of national and international importance. There is also concern that no formal noise assessment has been carried out in accordance with TAN 11 and BS4142 2014 (2). Alternatively, we would request a condition to limit event noise levels at residential homes to not exceed the current L90.

#### ***Further comments from Torfaen CBC's Ecology Officer following submission of over-wintering bird surveys:***

Whilst I acknowledge the report as a useful contribution to our understanding of the growing anthropogenic disturbance at this Site of Special Scientific Interest (SSSI) its limitations as set out

in section 1.5 are, in my opinion, significant enough to question whether it satisfies the requirements of Planning Policy Wales Edition 11 2021 section 6.4 Biodiversity and Ecological Networks.

It is noted that three survey visits 27th October 7th and 28th March were disrupted by water sports activities and that the prevailing weather conditions on five (5) other dates also limited the collection of data. So, in total eight (8) out of the 11 visits were identified as having limitations. I am therefore surprised that, a) water- based activities were not suspended during survey sessions to ensure disturbance was minimised, and b) where disturbance and weather conditions were influencing factors why replacement survey dates were not considered. For this reason alone, I am concerned that the Wintering Bird Survey lacks the scientific rigor necessary to adequately inform a planning proposal on or adjacent to a SSSI and therefore doesn't meet the requirements of PPW regarding the protection of a nationally important site. Section 6.4.14 of PPW:

Statutory designation of a site does not necessarily prohibit development, but proposals *must be carefully assessed* (my emphasis) to ensure that effect on those nature conservation interests which the designation is intended to protect are clearly understood; development should be refused where there are adverse impacts on the features for which a site has been designated. International and national responsibilities and obligations for conservation should be fully met, and, consistent with the objectives of the designation, statutorily designated sites protected from damage and deterioration (my emphasis) with their important features conserved and enhanced by appropriate management.

I am concerned that any recommendation to approve planning consent based on the conclusions of the Wintering Bird Report and the poor ecological enhancement proposals will fail to meet the terms of planning policy. Including:

- o Due to its limitations the Wintering Bird Report is unreliable and therefore insufficient to address the impacts on a site that must be regarded as stepping stone feature for Severn Estuary SPA/Ramsar site.
- o Due to its limitations the Wintering Bird Report is unreliable are therefore fails to satisfy the requirements of Planning Policy Wales regarding potential cumulative impacts on a nationally important SSSI.
- o The enhancement proposals are of insufficient detail to satisfy the step-wise approach to maintaining and enhancing biodiversity as set out in para 6.4.21 of Planning Policy Wales. Can the applicant clearly demonstrate that the step-wise approach has been applied to this proposal?
- o Is the planning authority satisfied that this proposal meets all the aspects of the public bodies' biodiversity and resilience of ecosystems duty as set out in section 6 of the Environment (Wales) Act 2016 and reiterated in section 6.4.5 of Planning Policy Wales?

Finally, for the reasons set out above I wish to maintain my holding objection.

**Llanbadoc Community Council** - Recommend refusal. The council maintains its previous objections.

**Llangybi Fawr Community Council** - Object. The Community Council has grave concerns regarding these applications as have been outlined several times before when similar applications have been submitted. This application to vary the use and opening times of the Visitor Centre from that granted in earlier application DC/2012/00442, and seeks to achieve the same -effect as the earlier withdrawn application DM/2020/00036. This application mirrors application DM/2020/00763, which seeks to achieve the same variation in use and hours of opening for the adjacent Water Sports Centre, and our objections to this application are the same as those we are raising with regard to that application.

Llandegfedd Reservoir is a unique site of special scientific interest (SSSI) in the counties of Monmouthshire and Torfaen, and to propose to use the centre for large public events with

accompanying loud music during long hours of darkness is to have scant regard for its special status as a tranquil refuge for a variety of wildlife.

The applicants seek to justify their proposals for events with loud musical accompaniment by submitting a supposedly independent noise impact assessment that suggests a very limited impact on wildlife. This assessment appears to us to be deficient in a number of aspects. For example, it only considers noise generated inside the centre, whereas the applicants state that their intention is to erect a marquee nearer the water for larger events. It is very probable that this will be a significant source of noise, especially if the music is relocated or relayed to it. Moreover, their assumption regarding the attenuation of noise generated inside the centre is not valid if, as might be expected, the doors and windows will be open. We suspect that the noise (and other intrusions from light and movement of people) will have a greater impact on the wildlife than is implied. Better qualified representatives than us, from Natural Resources Wales, Gwent Wildlife Trust and Gwent Ornithological Society will no doubt express their views on this.

We are particularly concerned about the safety aspects of this proposal. Locating alcohol-fuelled events in close proximity to a large and deep expanse of water seems to be inviting disaster, especially during the hours of darkness. Personal experience suggests that staff at the reservoir are not able to keep dogs and even people out of the water in daylight hours, so it isn't clear how they would manage it in darkness with a large and noisy event taking place.

The reservoir and the watersports centre provide a unique facility in the area for a variety of water-based activities. On the other hand, there is no shortage of venues locally for the kind of event that Welsh Water is now contemplating for the centre, and in far safer locations. They should be using the centre to build on its primary use of water-based activities.

For these reasons we oppose the application to vary the conditions. We also request that the application be considered by the full Planning Committee and that the Community Council be afforded the opportunity to speak at that meeting.

***Further comments received following the submission of over wintering bird surveys:***

The attempt by DCWW to vary the conditions of operation of the Visitors' Centre has been through several iterations, and each time Llanybi Fawr CC has objected on various grounds. We repeat them below for information. The reservoir is a tranquil and beautiful rural location and provides a recreational venue where young and old can learn and practice a range of water-based skills or merely walk or relax in the beauty of the surroundings. Condition 7 was imposed in order to control the use of the facility by restricting its hours of opening and only for the uses specified. The reason given for this restriction was "to ensure that no alternative use is made of the premises that is likely to be a nuisance to local residents." In our view, this application fails to meet the requirements of the following LDP Policies:

NE1 Nature Conservation and Development  
EP1 Amenity and Environment Protection  
EP3 Lighting ]  
DES2 Areas of Amenity Importance

Llandegfedd Reservoir is an SSSI because of importance inter alia as an overwintering site for waterfowl including species under threat. Policy NE1 requires that development proposals that would have a significant adverse effect on a locally designated site of biodiversity and / or geological importance, or a site that satisfies the relevant designation criteria, or on the continued viability of priority habitats and species, as identified in the UK or Local Biodiversity Action Plans or Section 42 list of species and habitats of importance for conservation of biological diversity in Wales, will only be permitted where: a) the need for the development clearly outweighs the nature conservation or geological importance of the site; and b) it can be demonstrated that the development cannot reasonably be located elsewhere.

The proposal to hold weddings and parties at the site, especially outside the hours of daylight with music indoors and outside would have a severe detrimental effect on the site as a tranquil location for the waterfowl and other fauna such as badgers and otters which are known to frequent the site.

Policy EP1 seeks to prevent development proposals that would result in unacceptable risk or harm due to air, light, noise or water pollution, contamination or land instability. The policy requires that any development should have regard to the privacy, amenity and health of occupiers of neighbouring properties. More specifically the policy requires that any development proposals that would cause or result in an unacceptable risk /harm to local amenity, health, the character /quality of the countryside or interests of nature conservation, landscape or built heritage importance due to the following will not be permitted, unless it can be demonstrated that measures can be taken to overcome any significant risk including light pollution, noise pollution, and any identified risk to public health or safety. Llandegfedd Reservoir is located in a quiet rural location and as such is a popular venue for those seeking quiet and tranquillity. It is difficult to envisage how events under the proposed new use of the centre, e.g. weddings and parties of all descriptions, could take place without causing light and noise pollution to the detriment of local residents and visitors. There would be additional traffic on our quiet and narrow country roads, especially possibly very late at night.

Policy EP3 emphasises the importance of minimising the intrusiveness of any external lighting. Very stringent requirements were imposed in the approval of the original application, regarding light spill onto the water. Because of the restricted hours of operation in condition 6, little or no exterior lighting was required. Events taking place later than the current 9.00 pm deadline will require significant additional exterior lighting at the waterfront as well as the carpark and footpath down the hillside. In addition, such events held with the provision of alcohol, present a significant health and safety risk to those attending, considering the proximity of a deepwater facility and the presence of watersports equipment.

DES2 relates to areas of amenity importance and specifies conditions under which development proposals may be permitted. DES2(a) requires that there is no unacceptable adverse effect on the visual and environmental amenity of the area. Events of the nature proposed with their attendant noise and potential light pollution would have a severe detrimental effect on the amenity of the site and surrounding area. DES2(c) requires that there is no unacceptable adverse effect on the role of the area as a venue for formal and informal sport, general recreation and as community space, expressed in terms of actual usage and facilities available. The current proposal, by definition, in denying watersports users exclusive access to the centre, will have a detrimental effect on the site as a venue for sport. The site currently provides a range of learning courses for all, especially youngsters, teaching valuable skills about various watercraft and also how to stay safe on and in the water. Any curtailment of these facilities would be a significant loss.

Lastly, DES2(e) is concerned with the nature conservation interest of the area, through damage to, or the loss of, important habitats or natural features (Policy NE1 applies). We have already explained our concerns regarding this development proposal under Policy NE1 above.

Since the permission for the construction of the building was granted in 2012, the Wales Government has passed the Well Being of Future Wales Act. We question whether the current proposals set out by DCWW meet the Act's requirements for a healthier Wales and a more globally responsible Wales especially having regard to the threats to the fauna of this site which plays a crucial role in preserving the biodiversity of our beautiful county.

Finally having read the several management plans it is not clear that there is any commitment to ensure that functions will be policed sufficiently to intervene when events might get out of hand. By the time action is taken, local residents may be severely inconvenienced and irreparable damage may be done in terms of bird disturbance of this critical SSSI. For these reasons we urge that this application should be refused.

## Natural Resources Wales (NRW) –

**18/10/22** – We note that the undated Site Event Management Plan, has been updated and is now titled Visitor Centre Management Plan, dated 13th July on Monmouthshire Planning Portal. We are satisfied with the details in the plan and advise that the updated plan is included in the approved plans and documents condition on the decision notice. In summary our advice is that we continue to have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome if the documents identified below are included in the approved plans and documents condition on the decision notice:

- Noise Impact Assessment on the SSSI by Ricardo Energy and Environment, Revision 1, dated 12 February 2021
- Visitor Centre Management plan -Updated version, dated 13th July on Monmouthshire Planning Portal
- Ecological Impact Assessment, by Ricardo Energy and Environment, Issue No 5, dated 12 March 2021.
- Ecological Impact Assessment (EclA), prepared by Ricardo Ecology & Environment ED12587100, Issue Number 5, Date 12 March 2021.

Please note, without the inclusion of these documents we would object to this planning application.

**20/06/22** - We are satisfied that concerns can be overcome if the documents identified below are included in the approved plans and documents condition on the decision notice:

- Noise Impact Assessment on the SSSI by Ricardo Energy and Environment, Revision 1, dated 12 February 2021
- Site Event Management Plan – Visitors Centre – undated
- Ecological Impact Assessment, by Ricardo Energy and Environment, Issue No 5, dated 12 March 2021.
- Ecological Impact Assessment (EclA), prepared by Ricardo Ecology & Environment ED12587100, Issue Number 5, Date 12 March 2021

Please note, without the inclusion of these documents we would object to this planning application.

### Impacts on Llandegfedd Reservoir Site of Special Scientific Interest (SSSI)

The Llandegfedd Reservoir SSSI is designated for overwintering wildfowl, particularly wigeon, pochard and mallard. The area around the reservoir includes grassland, important for feeding and roosting wildfowl, woodland and scrub.

We have reviewed the additional information submitted in support of the application: the Wintering Bird Survey Report, by Ricardo, reference ED15876, dated 14/4/22. We welcome the survey work to provide a baseline for the sound/disturbance survey and overall, we agree with its conclusions. However, we note the relatively small number of birds present during the surveys near the Visitor and Water sports Centres – e.g. the 11% of coot being disturbed being from a sample of nine coots. Given that waterfowl numbers can vary at the site, we concur with the aims of the condition as set out in the Appropriate Assessment dated 7 May 2021 for an adaptive management approach to safeguard overwintering birds and we continue to request the conditions set out in our letter of 26 April 2021 CAS-141780-J8J5 be included on any permission your Authority is minded to grant. We consider that damage to the features for which Llandegfedd Reservoir SSSI is of special interest can be avoided if the proposed mitigation measures, as set out in the documents to be conditioned, are implemented. Should you be minded to grant permission for the above planning application without attaching such conditions as described above to the permission, we ask that you notify us under the provisions contained in Section 28I of the Wildlife and Countryside Act 1981 (as amended).

### Habitats Regulations Assessment (HRA)

We acknowledge receipt of an updated HRA dated 16/6/22 which we received on 20 June 2022. We will provide comments on the updated HRA in due course.

Our advice in relation to Bats remains as set out in our letter of 26 April 2021 reference CAS-141780-J8J5.

**20/07/22** - We agree with the conclusion of the Test of Likely Significant Effect that there is no evidence that there shall be a significant effect on Interest Features of the River Usk Special Area of Conservation (SAC) either alone or in combination with other plans and/or projects.

We note the Appropriate Assessment (AA) for the Severn Estuary European Marine Site (SPA and Ramsar) has concluded that adverse effects can be avoided or overcome by implementation of the planning conditions referenced in Section 5.2.

Although we did not request the condition under section 5.2.2 commencing "No indoor events between 1st November and 28th February will be permitted until a wintering bird monitoring programme", we recommend that wording of bullet point (d) of this condition is amended to "Mechanisms to secure remedial actions and a commitment to suspend events if necessary (or similar).

We also advise that the conditions' 'reason' should include "to avoid impacts on the Severn Estuary European Marine Site/features", in order to highlight which measures/conditions are being used to secure "no adverse impacts".

In summary, we agree with the conclusions of the AA that the proposal is not likely to adversely affect the integrity of the Severn Estuary European Marine Site.

We note mitigation under 5.1.1 proposes planting adjacent to the north elevation of the visitor centre. Subject to the implementation of these measures, we do not consider the proposed development will result in a detriment to the maintenance of favourable conservation status of the bat species concerned. Therefore, should planning permission be granted, the following submitted document should be included within the scope of the condition, identifying the approved plans and documents on the decision notice:

Ecological Impact Assessment (EclA), prepared by Ricardo Ecology & Environment ED12587100, Issue Number 5, Date 11 June 2020 section 5.1.1 (Bats)

In this case, the proposed development is unlikely to give rise to the need for a European Protected Species Licence application from us. We advise recipients of planning consent who are unsure about the need for a licence to submit a licence application to us.

**26/04/21** - The Llandegfedd Reservoir SSSI is designated for overwintering wildfowl, particularly wigeon, pochard and mallard. The area around the reservoir includes grassland, important for feeding and roosting wildfowl, woodland and scrub.

The application seeks additional uses of the visitor centre to allow for meetings, functions and events; as well as extending the opening hours from 6:00am to midnight. It proposes the change of use will allow for exclusive hire of the current waterside café outside of its normal hours (9:00am – 6:00pm). The application details also state the balcony of the visitor centre could be used as an overspill area in conjunction with the new uses; however, this will not be accessible after 11pm. We note the recommendations set out in the above reports to reduce impacts on the features of the SSSI. In particular, proposed mitigation measures set out in the Site Event Management Plan regarding noise reduction methods including the commitment for management controls throughout all events involving music to ensure that whilst access through the sliding doors onto the balcony may be allowed these doors will remain closed at all times, management of visitors, restricted areas; site staff supervising of events and functions; ensuring areas remain free from disturbances and additional signage and barriers etc.

Therefore, we recommend that planning permission should only be granted if the following submitted documents are included within the scope of the condition, identifying the approved plans and documents on the decision notice:

- Noise Impact Assessment on the SSSI by Ricardo Energy and Environment, Revision 1, dated 12 February 2021

- Site Event Management Plan – Visitors Centre – undated
- Ecological Impact Assessment, by Ricardo Energy and Environment, Issue No 5, dated 12 March 2021.

Should you be minded to grant permission for the above planning application without attaching such conditions as described above to the permission, we ask that you notify us under the provisions contained in Section 281 of the Wildlife and Countryside Act 1981 (as amended).

#### European Protected Species (Bats)

We note from the EclA that bats are present at the application site. The results of the bat surveys show an effect on a night roost for lesser horseshoe under the roof of the utility room door of the visitor centre. The EclA states the increase in lighting for an extra 3 hours (in the evening) at the visitor centre has the potential to disturb bats and reduce suitability of a night roost. We note mitigation under 5.1.1 proposes planting adjacent to the north elevation of the visitor centre. Subject to the implementation of these measures, we do not consider the proposed development will result in a detriment to the maintenance of favourable conservation status of the bat species concerned.

Therefore, should planning permission be granted, the following submitted document should be included within the scope of the condition, identifying the approved plans and documents on the decision notice:

- Ecological Impact Assessment (EclA), prepared by Ricardo Ecology & Environment ED12587100, Issue Number 5, Date 12 March 2021 section 5.1.1 (Bats).

In this case, the proposed development is unlikely to give rise to the need for a European Protected Species Licence application from us. We advise recipients of planning consent who are unsure about the need for a licence to submit a licence application to us

**Glamorgan Gwent Archaeological Trust (GGAT)** - No objections. The proposed development would not have a significant impact on any buried archaeological resource and therefore we have no objection to the positive determination of this application.

**MCC Highways** - No objection. The highway authority does not consider that the proposed amendments to the hours of opening will be detrimental to highway safety or capacity on the immediate local highway network.

Llandegfedd Water Sports Centre is located in what can be considered a sustainable travel location and access to and from the reservoir is generally by motor vehicle. Extending the hours of opening is likely to increase vehicle traffic overall with more vehicles using the local highways for an extended period of time rather than increasing vehicle numbers at peak periods.

**MCC Biodiversity** – No objections subject to conditions.

#### **25/04/22 - Llandegfedd Reservoir Site of Special Scientific Interest (SSSI)**

The following comments follow previous comments provided an MCC Biodiversity and Ecology Officer on 14/12/2020 and 04/05/2021 with relation to the applications DM/2020/00762 & DM/2020/00763.

A Wintering Bird Survey report by Ricardo Energy & Environment (dated April 2022) has been submitted to inform the application. The report details the findings of wintering bird surveys and noise disturbance surveys undertaken between October 2021 and March 2022.

#### Wintering Bird Surveys

A total of 10 wintering bird surveys were undertaken between October 2021 and March 2022. Although it had been previously requested that two wintering bird surveys per month were undertaken, during both October and December 2022 only a single survey was undertaken. No

explanation is provided in Section 1.5 – Limitations for the missing surveys during these months, or for why there was no attempt to account for these surveys elsewhere.

The limitations included in Section 1.5. of the submitted report detail occasions of disturbance encountered during surveys as a result of watersport activities and fishermen. Whilst it is regrettable that water-based activities were not halted for the duration of the surveys, we acknowledge that they are representative of the baseline conditions at the site as a result of the current management. Further limitations with regards to the weather conditions have also been acknowledged. Given the length of the surveys, more detailed weather data (hourly recordings) should have been provided in the appendices in order to assess whether such poor weather intervals were detrimental to the overall results of the survey.

The survey methodology is based on a modified BTO Wetland Bird Survey (WeBS) core count methodology. All surveys starting an hour prior to dawn (with one exception on 08/02/2022 which was timed to coincide with dusk) and had a survey duration of four hours. Such survey timings are deemed appropriate in order to pick up any pre-dawn roost movements that may have occurred between Llandegfedd and other sites such as the Severn Estuary EMS, although a greater number of dusk surveys would have been preferred to account for later behavioural activity.

It is noted that the location of the hide for surveying the northern section of the reservoir changed from the Bert Hamar Hide in November 2021 to Pettingale Hide in January 2022, which may have resulted in some discrepancies in survey data due to the differing viewsheds (no viewshed analysis has been provided as part of the report). Following discussion with MCC in December 2021, it was agreed that solely the Pettingale Hide would be used for surveys in order to ensure that the results provided a higher degree of consistency. We agree that the two chosen locations represent the best positions to achieve maximum visibility with the minimum number of vantage points. We are comfortable that the two vantage points are sufficient for accurately recording behaviour and activity levels on the main body of Llandegfedd Reservoir.

The results of the desk study detail peak count data collected from previous WeBS surveys. Compared against the data collected from the 2021/22 surveys, it would appear to be a relatively low year for some of the species associated with the Llandegfedd SSSI and Severn Estuary EMS, including wigeon (7) and teal (21). On the other hand, numbers of other species appear to be comparatively similar to peak counts of previous winter periods including mallard (202), tufted duck (41), shelduck (2), goosander (2) and pintail (1).

Historical data would appear to confirm that the 2021/22 season was a low year for overwintering wigeon and teal. The Birds of Gwent (2008) describes Llandegfedd Reservoir as 'the major site for [wigeon] in the county', with exceptionally high counts occurring during periods of severe winter weather. However, historical data also notes that numbers of wigeon have declined since 1986/87 with peak counts now regularly well below 700. Historical average peak counts of teal tended to fluctuate around 300 birds between 1974 and 2004.

The site was previously the most important site in Gwent for overwintering pochard, but historical data show that peak counts have been in decline since the early 1970s, and now are only recorded on a sporadic basis. This is consistent with the survey findings.

Whilst the results appear mostly typical of a winter season on Llandegfedd reservoir over the previous five years, low numbers of wigeon and teal mean that there remains a degree of uncertainty regarding the impacts of the proposals on species of both the Llandegfedd SSSI and Severn Estuary EMS.

### Noise Disturbance Surveys

As part of the scheme of wintering bird surveys, three noise disturbance surveys were undertaken to assess the impact of differing noise levels on birds using Llandegfedd reservoir SSSI. Section 2.2.2. of the submitted report details a bespoke methodology which involves recording responses of birds within the southern area of the reservoir to noise levels of 60 decibels (db), 80db and



100db played from the watersports centre. The methodology has been informed by the previous noise assessment by Ricardo Energy and Environment.

The surveys found an increase in behavioural responses during periods where music was played at 100db, with flocks of mallards (an interest feature of Llandegfedd reservoir SSSI) moving away from the watersports centre. Some behavioural responses were noted in mallards at 80db located within a 90m buffer of the watersports centre. Ricardo concludes that based on the peak counts of waterfowl and number of birds observed making behavioural changes in response to noise stimuli '...it is not anticipated that elevated noise levels (up to 100dB) and the proposed modifications to planning conditions will result in significant impacts on waterfowl abundance at Llandegfedd reservoir.'

We acknowledge that the sample level for the surveys is low, with noise assessments undertaken on only three dates. In order to improve the robustness of the survey data, a survey schedule encompassing the entire winter period would have been preferred. The failure of the submitted Wintering Bird report to draw upon any previous noise disturbance research to back up the assessment (and ultimately the conclusions) of the report undermines their reliability. For example, different species of bird have different tolerance thresholds to noise disturbance but there appears to have been no attempt to differentiate how the response of qualifying species may differ in response to noise disturbance. In order to accurately draw conclusions from the noise disturbance surveys, the report should have included a literature review drawing together existing ornithological research of noise disturbance on waterfowl species.

Nevertheless, despite the low sample level, the submitted noise assessment provides evidence that birds within 200m of the noise source are susceptible to disturbance at decibel levels higher than 80db, and that qualifying species of the SSSI (mallard) are known to use the area close to the watersports and visitor centres, albeit in low numbers.

### Conclusion

It is acknowledged that elements of the survey methodology and reporting mean that there remain elements of doubt with regards to robustness of the submitted survey data. Nevertheless, despite such inadequacies, with the imposition of strict management limitations that include no outdoor activities throughout the main overwintering period (November – February), the application is not deemed likely to have an adverse impact on features of the Llandegfedd Reservoir SSSI.

### Severn Estuary European Marine Site (SPA, SAC, Ramsar)

The Severn Estuary European Marine Site is located approximately 17km from the site. Due to potential impacts on features of the protected sites, specifically waterfowl assemblages, the application has been subjected to an Appropriate Assessment to test any likely significant effects on the features in question. Any application should only be approved subject to an AA concluding that features of the Severn Estuary SPA will not be adversely affected by the development.

### River Usk (SAC)

The River Usk SAC is 7.5km from the site. The likelihood of a significant effect on features of the SAC was assessed and screened out via the HRA process.

### Biodiversity Net Benefit

Planning Policy Wales (PPW) 11 sets out that "planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity" (para 6.4.5 refers). This policy and subsequent policies in Chapter 6 of PPW 11 respond to the Section 6 Duty of the Environment (Wales) Act 2016.

The currently submitted enhancement plan is insufficient for the purposes of this application. There is a lack of detail with regards to the proposed 'new grass cutting programme' with neither the

management prescriptions, aims or location provided. Whilst promoting the growth of meadows at the site is tentatively welcomed, relying on a grass cutting programme to deter walkers seems only likely to be of use in the peak summer months. The installation of physical barriers to prevent access to the waterbody and meadow habitats would seem a far more effective solution, and potentially work to reduce disturbance of waterfowl during the overwintering period for which the SSSI is designated.

Other habitat measures to offer feeding/sheltering habitat for overwintering wildfowl would be highly encouraged.

Canada geese are an invasive species that has become established in much of the UK. Whilst we do not oppose measures to encourage nesting behaviour at the site, we do not view this as a biodiversity enhancement feature.

Whilst the work to remove areas of overgrown willow as part of the applicant's responsibility to maintain the SSSI is welcomed, this is currently ongoing work and part of the landowner's responsibility for the managing the SSSI. Therefore, we do not consider this as a biodiversity enhancement feature.

No details including numbers, specification or location of the proposed bird and bat boxes have been provided. Bird boxes should be targeted at specific species likely to benefit from increased nesting provision, particularly species known to be declining locally or nationally, and listed on the Birds of Conservation Concern Red/Amber lists. It is understood that existing nesting provision at the northern end of the reservoir have fallen into disrepair and replacing these nesting locations would be welcomed. Such proposals should include details of ongoing monitoring and maintenance.

Consequently, in order to meet the requirements of PPW 11, we require an Ecological Enhancement Plan to be submitted which includes a map detailing the location of the proposed enhancement measures. Furthermore, details including management prescriptions, aims and targeted species should be included

**04/05/21** - Previous objections were made against the DM/2020/00035 and 00036 section 73 applications (applications now withdrawn). Comment was made (objection) in December 2020 relating to the planning applications DM/2020/00762 and 00763 following the submission of further information. Additional information was provided in March 2021 and has been reviewed.

#### Potential impacts of the proposals on ecology

The proposals are intended to extend the water and land based activities which will by their nature include more people, a wider range of activities and longer duration of activities throughout the day and the year. Land only activities being permitted during the winter months 1st Nov – 28th Feb. The 'closed season' for the SSSI is Oct 1st - February 28th .

The impacts of the proposals are considered to remain the same as previously identified for the s73 application and are predicted to arise from disturbance (noise, visual and lighting) that could impact on the SSSI (overwintering birds), other birds, bats, badgers and otter.

Increased noise from vehicles, people and PA systems including music are a particular concern for the key species noted above. The movement of people and vehicles is also a concern with the latter being an issue for road mortality of species such as otter but also badger. Movement of people into restricted areas during the sensitive season is a concern as is the proposal to manage this via the DCWW management plan.

#### Car parking

The comment log submitted with the application notes that there will not be an extension/change to car parking arrangements. I recommend that we use a planning condition to control this to prevent any degradation of surrounding habitats and increased vehicle movements.

## Conservation of Habitats and Species Regulations 2017 (as amended) River Usk (SAC)

The Reservoir sits on the Sor Brook which is a tributary of the River Usk (7.5km). The HRA screening document provided with the application was previously updated to remove erroneous information referencing saltmarsh etc. however, this seems to have been re-incorporated into the latest version. Notwithstanding this, Monmouthshire County Council has enough information to undertake the Habitats Regulations Assessment. This assessment is required by Regulation 63 of Conservation of Habitats and Species Regulations 2017, before the Council as the 'Competent Authority' under the Regulations can give permission for the project. A Test of Likely Significant Effect (TOLSE) has been undertaken in relation to the River Usk and no significant effect on the Interest Features of the River Usk has been identified.

## Severn Estuary European Marine site (SPA, SAC, Ramsar)

Regulation 33 advice for the European Marine Site (EMS) states that some species will use areas of land and coastal waters outside the boundaries of the EMS. The MCC Review of Consents study (JBA, 2013) acknowledges the Zone of Influence to include this location due to use by Bewick's Swan. All species that are listed as reasons for designation of the SPA have been recorded at the reservoir and 8 out of 10 of the water bird assemblage have also been recorded. The submitted screening document has now been updated to include the Severn Estuary (the EclA has not) however, the conclusion is not considered to be precautionary enough in the absence of targeted survey information. Monmouthshire CC has undertaken a Habitats Regulations Assessment TOLSE and concluded that it is 'uncertain' whether there could be a Significant Effect on Interest Features of the EMS. A full Appropriate Assessment (AA) considering winter bird Interest Features has therefore been undertaken. Additional Measures considered necessary to protect the Integrity of the Severn Estuary EMS include planning conditions recommended by NRW in relation to implementation of :

- Noise Impact Assessment on the SSSI by Ricardo Energy and Environment, Revision 1, dated 12 February 2021
- DCWW – Llandegfedd Visitor Centre – Site Event Management Plan [submitted 16 March 2021] or
- DCWW – Llandegfedd Water Sports Centre – Site Event Management Plan [submitted 16 March 2021]
- Ecological Impact Assessment, by Ricardo Energy and Environment, Issue No 5, dated 12 March 2021.

A detailed condition is also required in relation to the monitoring that is referenced in the above documents.

It is concluded that the project will not adversely affect the Integrity of the Severn Estuary EMS alone or in combination with any other projects subject to the agreement of the detail of the planning conditions.

## Llandegfedd Reservoir SSSI SSIs are of national importance.

The Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000, places a duty on all public bodies, including planning authorities, to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of the features by reason of which a SSSI is of special interest. This is reflected in Planning Policy Wales 10 ... There is a presumption against development likely to damage a SSSI and this presumption should be appropriately reflected in development plans and development management decision.

The site is designated for the overwintering wildfowl that use the water and banks of the reservoir for roosting and feeding. The potentially damaging operations identified in the site citation for the SSSI include recreational activities.

As previously stated, we typically refer to NRW advice on proposals in relation to the SSSI, however during the consideration of this application a number of issues need to be addressed before we, as the LPA, can be satisfied that there will not be an impact that will prevent us from complying with policy and legislation. Therefore, I have made further comment on matters relating to the SSSI in the detailed objection prepared in May and December 2020.

The scheme proposal I had previously commented that it was unclear from the submission which activities would be undertaken during the closed season, their frequency and the cumulative nature of the activities. The updated Ecological Impact Assessment (EclA) clarifies in section 1.1: In line with the current agreement, no water sport activities are to take place on the reservoir, between 1st November and 28th February (except for Sunday during November when sailing in the southern part of the reservoir is permitted). This EclA is not to amend the current agreement and no outdoor events will occur between 1st November and 28th February.

However, the DCWW management plan for the water sports centre only refers to seasonal control of outdoor events with 'external music', possibly suggesting that other types of outdoor events could proceed during this time.

Seeking clarification via email dated 15/04/2021, DCWW (via Asbri) state that: If outdoor events include things like Christmas Fayre or bird of prey displays then yes we will be conducting events in the winter but without PA or music.

Therefore, there is some discrepancy between the ecological assessment, which makes the assumption that there will be no outdoor winter events, and the management plan with little clarity provided in personal communication.

NRW have advised controlling all outdoor events associated with the water sports centre during the winter months via a planning condition. I support this approach to preclude all outdoor activities at this sensitive time.

### Survey and Assessment

It is acknowledged that there are a lot of bird records for the site however, meaningful survey has not been undertaken to inform the assessment. As previously stated, it is insufficient to make an assumption about the use of the reservoir by the key species based on the areas where water-based activities are restricted.

There is evidence from noise modelling that disturbance can occur within the SSSI boundary; in the absence of meaningful bird survey work, the assessment on potential impacts and resulting mitigation proposals should be extremely precautionary with the control of outdoor activities in the winter and monitoring of the impacts of indoor events during the winter secured.

We still do not have any targeted survey relating to the use of the area near to the buildings that could be disturbed by events that previously would not have been permitted. Data and evidence that has been used to inform the application still falls below the minimum that we would expect for a site (for reasons outlined in May and December 2020), particularly a site of national importance i.e. a SSSI. However, the latest submission details a mechanism to allow a form of monitoring in relation to the scheme and the SSSI status. The mitigation (section 5) of the EclA states:

*No outdoor events will occur within the closed season (1st November and 28th February) when the SSSI wintering bird population is present. A five-year wintering bird monitoring programme is recommended to monitor the location and behaviour of wintering birds during indoor events between 1st November and 28th February. As part of the planning application a site event management plan has been produced which entails decibel level restrictions along with event management practises. A regular review of the wintering bird monitoring should take place alongside the event management plan.*

A planning condition would be required to control this. No events between 1st November and 28th February should be permitted to take place before this monitoring plan has been agreed in writing

by the LPA (in consultation with NRW). It is critical that the results of monitoring are linked to curtailment of operations at the site e.g. reducing the dB trigger for noise limiting devices, reducing the frequency / type of events.

### DCWW Event Management Plans

As previously noted, in order to ensure that we are complying with policy and legislation, Monmouthshire County Council needs to carefully consider whether the management plans for the Visitor Centre and Water Sports Centre are enforceable documents that we will be able to monitor and respond to breaches of, to prevent impacts on the SSSI. I still have concerns about the enforceability of the management plan as submitted, including management of the risks to key species. Therefore, specific planning condition relating to outdoor events during the winter and monitoring of indoor events will be required.

Clarification of the control on outdoor events (i.e. there will be none), the inclusion of noise limiting devices and a commitment to not allow fireworks are welcomed. However, further controls relating to outdoor events at the water sports centre and the monitoring of the effects of indoor events will need to be secured by standalone planning conditions.

In-combination and Cumulative impacts of development The cumulative impact of events in both the water sports centre and the visitor centre has been referenced in the EclA. It is considered that this should also be considered by the monitoring of indoor events.

### Legally Protected Species

Badger - Survey has now been provided. Impacts on this species have been screened out on the basis of their ecological importance in legislation. The management plans incorporate triggers to consider mitigation for badger should road fatalities be recorded.

Otter – Reference is made to the likely use of the north of the reservoir by this protected species following otter survey around the water sports and visitor centres. In the absence of an update following my earlier comments (dated December 2020), I have reviewed otter habitat in the catchment and in the vicinity of the application sites. There are opportunities for otter to maintain north-south movement in the wider catchment, however, there is some potential for increased otter road mortality associated with an increase in vehicle movements. It is noted that the site event management plans refer to monitoring of road mortality in relation to events. This needs to be linked to action if road mortality becomes an issue. A separate planning condition is recommended for this.

Bat Roost - NRW have not objected to the potential loss of the night roost in the visitor centre as the result of further lighting. It is noted that a new hedgerow has been planted, which is welcomed. An alternative lesser horseshoe location should be offered to ensure there is no net loss of biodiversity, although this is unlikely to be a licensing requirement. The submitted 'comment log' states that this was to be addressed and yet it hasn't been updated.

The EclA considers the potential impact of three hours of additional artificial lighting specifically for bats and otter. However, the DCWW management plans indicate that the proposals include an extension of opening hours from 6am until midnight i.e. an extra 6 hours. The comment log refers to an update of the EclA to reflect the extent of the lighting proposals however, this doesn't appear to be the case. Notwithstanding this, the assessment concludes for bats that there are additional areas of foraging / commuting habitat. Due to the nature of the site, and alternative foraging commuting areas in this high value landscape, I do not disagree with this conclusion.

### Priority Habitats & Species - Section 7 Environment Wales Act 2016 Species

A number of the key species identified at the site are listed on Section 7 and are therefore pertinent to the Environment (Wales) Act.

### Environment Wales Act 2016 - Net benefit for biodiversity

Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity. The information provided with the submission does not give confidence that an approval of this proposal would not cause significant impacts on populations of species. As discussed in detail above, planning conditions are recommended to control the proposals particularly limiting winter activities to indoor events only.

Net benefit for biodiversity has only been referenced in relation to an unspecified number of bat boxes to go in unspecified location(s). This is not acceptable for the scale of proposal and potential for net benefit that this scheme could offer. A planning condition will therefore be needed to secure enhancements.

#### Monmouthshire Local Development Plan Policy NE1

Policy NE1 relates only to local designations whilst referring to national policy (i.e. PPW 11 and TAN5) in relation to the tiered approach to statutory designated sites including SSSIs. The proposals will only meet policy NE1 if it can be demonstrated that the benefit of the development outweighs the harm to the local nature conservation value, that development cannot reasonably be located elsewhere and that adequate mitigation, compensation and enhancement are in place. There are no local designations relevant to the scheme and no Section 7 habitats are predicted to be detrimentally affected. However, Section 7 species could be detrimentally affected including species of bird that may be disturbed by the increased activity at the site. Critical times for such species, including during the winter, must therefore be controlled by use of a planning condition. Enhancements are expected to be incorporated, again via planning condition.

#### ***13/10/22 - Further comments on committee report conclusions:***

We agree with the conclusions relating to biodiversity which can effectively be summarised as the following:

- There are a number of acknowledged inadequacies with the methodology for both the wintering bird surveys and noise disturbance surveys
- Nevertheless, with the inclusion of conditions ensuring no outdoor activities are permitted throughout the main overwintering period (1<sup>st</sup> Nov – 28<sup>th</sup> Feb) and the provision of a robust monitoring programme, negative impacts on features of the SSSI or Severn Estuary EMS can be appropriately mitigated
- A risk to increased badger and otter mortality via increased vehicular traffic has been identified, and a monitoring scheme will be secured via condition
- The application currently does not comply with PPW11 as it does not demonstrate biodiversity net benefit. The current enhancement plan is insufficient, for various reasons laid out in the report, and no updates to the plan have been received. However, a pre-commencement condition ensuring an ecological enhancement plan will need to be submitted to and agreed by the LPA should allow us to secure this.

In my opinion, a condition restricting concurrent events to no more than two would be welcomed on the basis of controlling potential impacts caused by excess vehicular traffic, as concerns have previously been identified as to the impacts on badgers and otters, with potential for increased mortality.

**MCC Environmental Health** - We have reviewed the above application and the additional information supplied. We can see that the applicant has now submitted two separate Noise Impact Assessments for both the Watersports Centre and the Visitors Centre. They have also included separate site management plans for both sites. These amended documents have addressed all previous comments.

We also note that the applicant has added a fourth receptor as discussed and has increased the monitoring time later into the evening. We also note that reference to construction noise has been removed from the documents as there is no longer any construction planned at the site.

Based on the new information supplied we have no objections to this application. Although as agreed by the applicant and detailed in both their noise impact assessments and site management plans, I would suggest that if planning permission is granted, the following conditions be included;

1. Outdoor events are limited to 12 per year and must finish, including the use of amplified recorded music and PA systems no later than 5pm.
2. All outdoor events be subject to a noise management plan submitted by the applicant to be approved by the Local Planning Authority.
3. All indoor events at both the visitors centre and the water sports centre, including any amplified recorded/live music should finish no later than 11pm.

Please also note that the applicant will need to apply for a Premises License if planning permission is approved.

**SEWBRc Search Results** - Various protected species identified within the vicinity of the site - bats, otters, badgers.

## 5.2 Neighbour Notification

Twenty-two representations received, objecting on the following grounds:

Impacts on biodiversity, specifically concerns on impact on SSSI status as a result of increased activity, lighting and noise;  
Future management of site from environmental perspective;  
Increase traffic and insufficient parking provision;  
Noise pollution and general increased public nuisance (opening hours etc.,) from an environmental health perspective;  
Displacement of sailing club and type/duration of events proposed - negative impact for water sports users;  
Public safety concerns - danger of licensed venue next to open water;  
Security concerns (i.e. managing events on site);  
Negative impact on rural economy (i.e. other venues in close proximity); and  
Negative impact on wellbeing of local residents.  
Lack of public transport and increase in traffic  
Any limits on hours of operation and noise-levels are in practice unenforceable.

A petition has also been received signed by 180 individuals. Signatures were collected at approx. 2-3 hour sessions over 8 days in summer 2020.

*Response to re-consultation following the submission of over-wintering bird surveys (NB. All previous objections still relevant):*

- Wholly incomplete, inadequate and an incompetent study of such a recognised and registered site of special scientific interest (in this context) of over wintering birds.
- The MCC Planning Officers et al would do very well to consider these GWT and GOS responses extremely seriously, as they constitute overwhelming reasons why this DCWW Wintering Bird Survey is simply not fit for purpose.
- Welsh Water should carry out at least an additional year of survey work.
- At the moment the general public along with their dogs are frequently seen in areas where rare ground-nesting birds nest, like little ringed plovers and their nests are often destroyed.
- A couple of years ago Ospreys were seen at the reservoir. A platform encouraging them to nest and stay was erected. This to my knowledge has been removed.
- We believe from the knowledgeable people of the Gwent Ornithological Society informing us that this survey is incomplete, not representative of the large numbers of birds using the Reservoir and evidence shows it is flawed and ultimately has no credibility.

- We have not seen any mention of the large numbers of gulls using the Reservoir overnight and on other occasions. These numbers often exceed over 6000 birds. These Gulls are often made up of rare species which must be encouraged and protected.
- The Heronry which has been a successful breeding place for many years is also disturbed by one of the paths used by the public.
- This surveys took place over a short space of time; sampling was conducted at selected locations only and no survey was carried out at evening when gulls arrive in huge numbers.
- The decline in birds is currently exacerbated by the extremely low levels of water as Dwr Cymru must carry out essential work. The SSSI citation by Countryside Council Wales states clearly: Water level is significant because many species require flooded land at the edge of the reservoir for feeding.
- In February 2020 the old fishing cages/platforms that had for many years provided valuable roosting and perching for wildlife were dismantled and removed.
- The bank to the north of the Water sports centre had for many years been a favoured grazing area for Wigeon. This area, minus a collapsed bank where orchids once grew, is now mown to leaving nothing to graze.
- Hostile behaviour by people and dogs and continual significant light spillage (in breach of planning conditions) denies wildlife peaceful conditions. These examples, culminating in the recent "decimation of the west meadows" (Iolo Williams) demonstrates the systematic removal of favourable conditions whereby wildlife may thrive at Llandegfedd SSSI.
- During Lockdowns wildlife increased in both species and numbers, evidencing their ability to thrive when no adverse human interference.
- Dwr Cymru continue with these two separate applications, which in reality is one, that would dramatically change this Site of Special Scientific Interest for ever as evidenced by the continued inclusion of the various Site / Event Management Plans which demonstrate the full extent of their open-ended ambitions for Llandegfedd .
- To avoid the 'dystopian future' feared by one of its members, the Senedd declared a Nature Emergency on June 30 2021. Monmouthshire Planning has a duty towards our future generations and can take decisions to ensure it is not Dystopian.
- The Planning Annual Performance (2020 section 3.3.7) confirms your commitment to: Protect and enhance the resilience of our natural environment whilst mitigating and adapting the impact of climate change "As an LPA demonstrating such commitment, the LPA are in a position to shape our future. By refusing these applications you allow our younger generations to become stakeholders in their own future .
- If the applications are approved, these buildings would no longer be a visitor centre or a water sports centre; they would be available for a wider range of leisure and business uses.
- There has been a considerable increase in traffic since the comments made in August of 2020.
- Noise surveys suggest that radio being played on the balcony of the Water Sports Centre is comparable to the noise that would result from live, amplified music and PA system at a social gathering. Although dismissed in its conclusion, the survey shows disturbance to wildlife; may we add the radio on early morning occasions in December, also disturbed their human neighbours.

One representation in support of the application:

- Upon reading there seems to be a lot of mention of 'we'. I can assure you that not all Coed-y-Paen residents are against the application. I, along with others, are in favour of the application.

Other:

- The setting up of an Ecological Liaison Group has apparently been established by Welsh Water Dwr Cymru. We would like to know when this group has met. What was raised and discussed at these meetings? Who sits on this group and what are the outcomes of these meetings? Importantly, as a public body, are the agreed minutes of these meetings available to the public?



### 5.3 Other Representations

**Gwent Wildlife Trust (GWT)** - GWT objects to these applications on the following grounds:

- Lack of Environmental Impact Assessment (EIA).
- Survey deficiencies.
- Noise- and light-related disturbance to wildlife arising from the proposals.
- Human-related disturbance to wildlife arising from the proposals.
- Permitted Development Rights.
- Lack of detail over proposed planning conditions, including the establishment of a steering group or similar to oversee their implementation.
- The development plan context.
- Welsh planning policy context.
- Legislative context

Conclusion: We urge the local planning authority to refuse the applications, at a minimum, until such time as a fit for purpose, two year bird survey to approved methodologies has been carried out by the developer, and screen in the applications for the need for a statutory EIA. Notwithstanding the above, we further urge the developer to comply with its statutory duties, and withdraw the applications.

#### **Further comments from GWT following the submission of over wintering bird surveys:**

Gwent Wildlife Trust objects to the content of the bird survey and noise assessment document, for the following reasons :-

- Deficient bird survey effort, based on inadequate survey radii employed by the developer.
- Deficient noise assessment, due to insufficient noise level simulations, insufficient noise emission point sources and a lack of a consideration of cumulative impacts.
- Incorrect conclusions drawn from the above.
- Certain key admissions made by the developer in his documentation, which critically undermines his case.

#### Survey Radii Employed by the Developer

The developer employed 90m, 200m and 300m radii from various points. However, as set out in our previous representation (appended), we consider these radii to be too small. This insufficiency has the effect of underestimating the likely level of noise - related disturbance behaviour, and thereby the likely significant adverse impacts on the SSSI bird population and other bird populations on the reservoir of acknowledged nature conservation importance. We reach this conclusion based on the following matters:-

The radii underestimate the noise levels which would be likely to manifest themselves. Noise levels at 100 decibels are emitted from such activities as a classical music concert for example, whilst the developer has referred to wedding and birthday parties with amplified modern music, as well as open air music on the banks of the reservoir, citing a previous windsurfers' festival with amplified music as an example of the type of activity intended, which local residents affirm could be heard over a kilometre away. An examination of published noise figures shows that such events would be likely to emit noise at levels of approximately 110 decibels, with 110 decibels being described by the charity Action on Hearing Loss as "a live gig or concert". It is important to note that these levels are very much higher than those emitted by the developer in his simulation, decibels being measured on a log scale, so for example 120 decibels is approximately four times as loud as 110 decibels.

The simulation experiment took place from one location only (the Water Sports Centre), which is the building the furthest set back from the banks of the reservoir. It is therefore deficient because it did not measure noise from the location of the 12 outdoor events, nor from the Visitor Centre. 2.1.4 Only three days' noise surveys took place over a six-month period

The simulation experiment consisted of incrementally increasing the noise levels from 60, then 80, then 100 decibels. Even leaving aside the fact that 100 decibels is too low, this is not an accurate simulation of the types of events for which the developer seeks permission, because such events would be more likely to consist of sudden outbursts of very loud music, rather than a slow increase in volume. The former is likely to have a much larger disturbance behaviour effect on birds than the latter.

The noise was emitted for only three periods of 10 minutes each (in the mornings only), whereas a proper simulation of the duration and intensity of noise would have consisted of short bursts of very loud music spread out over an entire afternoon and evening.

Only one noise source was used, whereas the developer's proposed arrangements could result in three simultaneous and cumulative sources of noise (the Water Sports Centre, the Visitor Centre and the outdoor events).

The damaging impact of noise emanating from the outdoor events would be likely to be very much more severe than implied by the developer, because the 12 events could, under the proposed arrangements, take place on 12 successive days.

The noise experiment did not, and could not simulate the additional noise levels and durations likely to be emanating from the potentially hundreds of members of public attending the outdoor events, and it is important to note that the developer has no way of stopping the general public from accessing the site for the outdoor events.

Conclusion to this Section: In spite of all the above underestimates, which are cumulative and synergistic, the document contains the remarkable key admission that 11% of the birds surveyed would be disturbed at 100 decibels.

### Cumulative Adverse Impacts

Additionally to the above, the developer fails to take into account likely cumulative and synergistic adverse impacts on waterbirds from the noise pollution with light pollution from the development sites, nor with human- or dog-related disturbance behaviour.

### Bird Survey Methods Employed by the Developer

Notwithstanding the above, the survey methods employed by the developer are deficient, and have the effect of underestimating the populations of birds likely to be significantly adversely affected by noise emanating from the three emitter locations. We therefore object to the survey methods on the following grounds:

The developer attempts to construct an argument to the effect that WeBs data relating to the site can be considered as part of a long-term trend data set. However, this is not the case, because the developer's survey did not cover all, or even most of the most important bird populations of the reservoir, including for example Green Pool, "The Island", Sor Bay and Eastern Bank. The developer thus cannot reach an assessment of the value of the reservoir due to the lack of survey effort.

We therefore consider that the developer should carry out at least an additional year of survey work. The local planning authority is reminded that three years' bird survey work was carried out in respect of the proposal for winter sailing.

The developer himself admits that bird numbers can fluctuate very markedly between years, and the data provided by him shows that for wigeon for example, numbers fluctuated from 420 in 2018-19 to 2 in 2019-20. The developer has tried to argue that, with the advent of climate change, milder winters are inevitable, and that the long-term value of the reservoir for birds has therefore decreased and will inevitably continue to do so. However, as our understanding of climate change has deepened, it is now universally-acknowledged that climate change is not a mere gradual

warming, but will constitute a fundamental disruption of climatic conditions. It is notable that the very severe winter of 2018 (known as “The Beast from the East”) resulted in very elevated numbers of waterbirds using the reservoir. Britain is approximately on the same latitude as Labrador in Canada, and changes resulting from climate change could plunge Britain into the types of weather phenomena experienced there.

Furthermore, there is considerable evidence of a very marked undercounting of bird populations in the developer’s survey. For example, daily counts by local birdwatchers identify evening gull populations on the reservoir in the thousands, sometimes up to 6000, but the developer’s morning only surveys identified a peak count of only 117 black-headed gulls. Additionally, other species fly onto the reservoir to roost in the evening from surrounding areas, so were also very markedly undercounted in the developer’s survey. There is some evidence that the fact that birds are compelled to fly from other away from the reservoir site to it may well be due to the damaging activities of the developer on the wider environs of the reservoir, such as on the banks and other associated land.

The survey frequency and efficiency was even further impaired by the limitations admitted to by the developer himself in the document. It is instructive to note that further doubt is cast on the developer’s survey by the fact that the baseline noise bird survey carried out as a by-product of the noise assessment appears, in some instances, to have identified higher numbers of some species than the actual bird survey, which was supposed to assess peak bird numbers.

The developer has not stated, nor can he state, what percentage of the bird populations of the reservoir would be likely to be affected by the development proposal, because he has not surveyed the whole reservoir populations (see above). 4.1.7 Further doubt is cast upon the veracity of the bird survey effort by such errors as misnaming the Latin name of wigeon, which is *Mareca penelope*, not *Anas penelope*.

#### The Developer’s Key Admissions, which Undermine his Case

Even setting aside the manifest deficiencies and underestimates associated with both the noise simulation experiment and the bird survey work, the developer himself makes two remarkable key admissions, which critically undermine his case:

- Bird populations already suffer disturbance displacement from anthropogenic sources, with the developer using the incorrect term “adaptation” to describe this disturbance displacement phenomenon.
- 11% of the bird population surveyed within the (insufficient) survey radii and subject to the (too low) levels of noise simulations suffer disturbance displacement.

#### ***Further comments from GWT 27/09/22 – in connection with the outdoor music element of the application.***

We gather from a number of sources that the developer has dropped the outdoor music element of the applications. This is welcomed by GWT. However, we wish to make the following points in relation to this matter :-

1. We can find no formal confirmation of this intention on the part of the developer on the planning portal. The portal is the formal record of the evolution of these cases, enabling those who have a legitimate interest in the applications to apprise themselves of developments in relation to them, and therefore all material changes in circumstances should be registered on it.
2. This informal stated intention does not appear to include events organised by third parties, such as contractors, sub-contractors or others hiring the development site for example.
3. The informal intention does not appear to include the marquee, for which the developer claims permitted development rights. Music emanating from the marquee would be, to all intents and purposes, outdoor music.

We therefore maintain our objection to this element of the applications, until such time as the developer:-

1. Issues a legally binding commitment in the form of a letter to the local planning authority, to be uploaded onto the portal, confirming that they have dropped the outdoor music element, and
2. Formerly clarifies via the above letter that the dropping of the outdoor element includes all present and future third parties and all successors in title.
3. The local planning authority issues an Article 4 Direction in respect of the use of the marquee.

### **Gwent Ornithological Society - Objects.**

Conclusion: We believe that the change of use to an all-purpose function venue with internal and external music would be incompatible with the SSSI. The resultant increase in noise and activity would obviously cause a high level of disturbance. The site is designated due to its importance for over-wintering wildfowl generally, but particularly for Wigeon, Pochard and Mallard, with Goosander, Teal and Goldeneye also listed as being 'notable'. The surrounding area, particularly the grassland is noted as being important for feeding and roosting wildfowl. All of these species require quiet for feeding and roosting and the changes applied for will negate this.

We object to the application because we believe it would result in significant disturbance of wildfowl, and put the SSSI status of the site at risk. We ask Monmouthshire County Council to please reject this application by applying paragraph 6.4.17 of Planning Policy Wales (Dec 2018).

### **Further comments received following the submission of over wintering bird surveys:**

Our understanding is that DCWW does not have a management plan for the SSSI and so the site has been allowed to deteriorate as a site for nature. For a public owned company, the lack of even having a plan, let alone keeping to one, is astonishing.

#### The Winter Survey

The survey fails to give a representative count of birds at Llandegfedd Reservoir, with only the area adjacent to the visitor centre being surveyed adequately with 6 surveys. The Pettingdale hide was used for 3 surveys but for one there was poor visibility and for the other two moderate visibility (fog and drizzle). Only one survey was undertaken from the Burt Hamar hide. This is inadequate and falls well short of what is required to produce meaningful results.

Large swathes of the reservoir were not surveyed at all, including Green Pool (which can contain more than 50% of the wintering Teal and Wigeon at peak season), the waters around "The Island", Sor Bay and the Eastern Bank (not visible from the visitor centre). These areas would almost certainly hold the majority of the waterfowl. Therefore, because only a fraction of the area was covered, the results represent an unquantifiable but probably small fraction of the total number of birds using the reservoir during the morning. It is therefore not possible for the developer to arrive at a figure of the percentage of the population which would be affected by the development proposal.

Another factor is that bird numbers at the reservoir tend to be higher late in the day and at night (whereas the surveys were conducted in the morning) - This is due to:

1. Species such as Goosander flying in at dusk from river sites to find a safe roost.
2. Large numbers of Gulls flying in from a variety of sites during late afternoon to roost: numbers can be in excess of 6,000
3. Wildfowl who traditionally would have used Llandegfedd during the day for grazing etc. but have been displaced to alternative foraging areas by poor management of the site flying in to find a safe roost at dusk.

So all told the survey is a gross underestimate of the number of birds using the reservoir. The number of birds therefore that could be affected by the proposals is much higher than is suggested in the report. Also, because of single year variations in bird numbers the survey would need to be carried out over three consecutive years to give meaningful results. The survey would need to cover the whole reservoir on 6 monthly occasions, with both morning and evening visits included.

In conclusion, the Winter survey is flawed to the point of being worthless as a gauge of birds present on the Reservoir, and so no conclusion should be drawn from it.

## Noise

Note a few flaws in the part of the survey that investigates noise disturbance:

The distance of the microphone that's measuring the loudness of the test speaker is not mentioned. A speaker producing 100db, but at what measurable distance? 10 cm? 10 metres? 100 metres? Results of this study would be drastically different at each measurement.

Also, the survey does not reflect reality in that a concert would have at least 100db (probably more in reality- 120dB seems to be the figure for concerts from internet information sites) for several hours rather than ten minutes.

Additionally, there would be further noise from several hundred revelling spectators. The P.A. is also not mentioned and this can cause even more disturbance than music, as it is louder (in order to be heard over the music).

To get a true picture of the disturbance level, all three of these noises need to be simulated synchronously at the 120dB level. Management changes to SSSI's are meant to enhance them, whereas this study seeks to quantify the level of disturbance of the proposed changes.

The Consultant found that 11% of the birds surveyed showed a degree of disturbance-related behaviour (see 4.4) at the (too low) 100 decibel emission level and this is a damning indictment of the developer's application. The consultant also admits that SSSI birds local to the visitor centre are already exhibiting disturbance displacement behaviour from existing anthropogenic sources, including, presumably, DCWW's own damaging activities. Saying that birds have "adapted" to anthropogenic events by relocating to the west and north of the reservoir (see 4.1), is a bizarre turn of phrase which really means "have been disturbed by".

The cumulative effects the current anthropogenic disturbance (as admitted above), noise from new events and increased light pollution are a toxic mix which can only add to the level of disturbance.

## Conclusion

Gwent Ornithological Society objects to the planning application because it is certain to cause additional bird disturbance. This SSSI forms one of the three regionally important wintering waterfowl refuges in Wales and should be protected. The plan to hold Outdoor music Events on the reservoir's banks are an outrage which should not be contemplated. The winter survey adds nothing due to the reasons given above.

**Torfaen Friends of the Earth** - Object to the above planning applications on the following grounds:

The applications could not be considered as essential for human need to justify the impact on the ecosystems of this site of special scientific interest, which would trigger a downward trajectory of sustainability.

- We see no further evidence in the Noise Impact Report to support the current applications. The report gives no evidence of a vibration impact being undertaken, and only references noise levels, and in this respect pays no attention to night time music pollution when most birds sleep.
- The Welsh Government Policy document "Building Better Places: The Planning System Delivering Resilient and Brighter Futures, refers to the Green Infrastructure and the drive towards building resilient ecological networks. It also highlights the importance of improved soundscapes in the built up environment, acknowledging the need for noise reduction in our lives as an important element in healthy living, not least our mental as well as physical health.

- The building, in which these planning applications seek to allow music, was not designed or constructed with the intention of it being used for late night music and therefore, does not incorporate the necessary requirement of sound reducing design or materials.
- It follows, therefore, that to introduce late night loud music and disturbance into a naturally peaceful soundscape, valued as such by many people, is in contravention of this Welsh Government policy.
- In respect of otters, the EIA report states that the Ranger had not found any evidence of otter activity in the southern end of the site. This is not to say that otters do not move within this area, particularly at night when they are most active, but that no evidence could prove that they did. However, absence of evidence is not evidence of absence. Therefore, it cannot be stated that lack of evidence is proof that otters do not utilise this area. The same can be said of badgers. Both these species are protected under legislation, of course. To ignore this point is not an acceptable position if a precautionary principle approach is claimed to have been taken.
- Environmental impact studies can only provide evidence so far, and that a habitat can have the potential to support a species, even though the evidence of that species existence cannot be proved one way or the other. This is the limitation of our abilities, and often it is only in hindsight that we can understand the impact of human activity on the environment when we see it start to deteriorate in ways unforeseen. In an area as obviously environmentally beneficial to humans and wildlife, further human intervention of noise, lighting and vibratory activity can only ever have a negative impact. What cannot be proved, therefore, is the EIA conclusion that the wildlife will only be minimally impacted.
- Until EIAs recognise the impact of vibration on wildlife by human activity such as this planning application will introduce, it cannot be stated that impact will be minimal. It is the total package of everything combining which will have its worse effect. The only sensible outcome for the use of the precautionary principle in this instance, is not to allow these planning applications to succeed.
- Llandegfedd Reservoir is recognised as a Special Landscape Area and given the designation of an SSSI. It should remain as a place of peaceful enjoyment for the benefit of its many current users. Additional uses, such as meetings by other organisations during normal daylight hours, could be explored with the agreement of existing users, such as the sailing club, because these would not impact negatively on wildlife or the neighbourhood. It could provide the supplementary income Dwr Cymru require, without the loss of the peaceful, quiet enjoyment by families, especially children who are encouraged to explore the beautiful surrounding area, learning to discover and value its wildlife.
- Wildlife is very nervous and shy. Disturbance leads to loss of species, and ultimately to the spoiling of the enjoyment of the site. Learning how to be careful around wildlife is something people need to understand and commit to. The introduction of alcohol and night time music could not guarantee such respect. To extend hours to midnight for use by hirers using music and alcohol will destroy all that people love about this place and ruin it for the majority of its visitors. It will be out of keeping with the character of the area and lose its peaceful nature.
- In recent months, people have recognised more the healing power of the natural environment since the impact of the Covid 19 pandemic. They want further measures taken to protect the environment for future generations. This is the message countless people have been sending to all levels of government to urge them to make policy decisions to future proof our environment. The Welsh Government in releasing its "Building Better Places" policy document is recognising this need. It is now up to local authorities to implement this policy in their planning decisions.
- Highway safety is a considerable concern of people especially those living locally. The dark, country roads which surround the reservoir require careful driving. Approval of this planning application would not be a sensible decision.

***Further comments received following submission of over wintering bird surveys:***

Having carefully studied the report, we wish to state that our position regarding the effect of the proposed development on overwintering birds, and indeed the wider species affected, has not changed in our opposition to these planning applications.

The aim by Welsh Water is persistently to seek to maximise the profit on their investment, and this by a company declaring itself to be a not for profit company embracing the sustainability goals of the (Wales ) Future Generations Act 2015.

The negative impacts of human activity world-wide on wildlife habitats is well known and cannot be overstated. Migrating and overwintering birds are losing habitats and experiencing disturbance across the world. We, in this country should be increasing opportunities to counteract this loss, not the reverse.

Climate change brought about by human activity on the natural world requires responsible companies, and individuals, to examine critically their own aspirations against this scenario and to make the judgement call on limiting them.

**Usk Civic Society** - Usk Civic Society objects to both these applications to alter the hours and conditions of use of these premises at Llandegfedd Reservoir. It agrees with many of the objections made by local residents, amenity groups and even MCC's own environmental health team about the effects of these proposals.

First, the main function of the reservoir, apart from storing water, is to provide a suitable environment for wildfowl, particularly passage migrants and winter visitors. Its designation as an SSSI reflects this role. Unpredictable and intermittent noise such as would result from the venues' use for functions late at night cannot be consonant with this role, as the birds must suffer disruption and disturbance.

The Society notes that MCC's own environmental health team has in relation to previous applications considered the noise pollution data supplied by the applicant to be defective in that it fails to properly reflect the effect of noise from parties and functions on the residential sites around the reservoir. It also fails to take into account the effects of opening doors and windows and of using a marquee for some functions. The noise assessments now provided for both venues are somewhat disingenuous in that they assume a noise level of 80 decibels. Various other objectors have pointed out that this is a substantial underestimate of likely noise levels from a social function with music these days. It also looks at the noise levels from each of the two venues in isolation, and therefore fails to consider the cumulative effect of simultaneous or overlapping functions. And it must be remembered that any increase in decibel levels is logarithmic.

The suitability of an application for these changes from an entity which is a public body and a public authority under the terms of the Well Being of Future Generations (Wales) Act 2016 and the Environment (Wales) Act 2016 appears to be at odds with its statutory duties under these Acts. The use intended to be made of the facilities at Llandegfedd appears to be solely for the purpose of making a commercial profit. The Environmental Impact Assessment now provided appears complacent about the effects of the additional noise and disturbance on both human and animal residents and visitors to Llandegfedd reservoir and the neighbouring village of Coed-y-Paen. The conditions imposed on usage and operating hours for the two centres as conditions to the original planning applications for their construction were imposed for good reason. No reason has been given why the inhabitants' peace and quiet enjoyment of a rural location should now be set aside, perhaps because there is no valid one.

Although MCC Highways appears to consider that the narrow lanes providing access to the site will be capable of coping with the extra traffic, including large service vehicles, which will be generated by the use of these facilities for functions, often at night, it must be questionable whether this is really sustainable without creating additional hazards for residents. The narrow lanes to the east of the reservoir are seen as a particular problem. The testimony of those residents is that a problem already exists; traffic associated with late evening functions can only make things worse.

***Further comments received following the submission of over wintering bird surveys:***

Usk Civic Society has seen the latest developments in these two cases, in particular the further work by the developer's ecologists and the rebuttals by local objectors, Gwent Wildlife Trust and

Torfaen Friends of the Earth. We agree with their assessments that this further work is not thorough enough in terms of observation time, realistic modelling of conditions and its general construction. It provides no basis on which MCC could reasonably derive reassurance as to the consequences of allowing these applications. We therefore submit that, for the detailed reasons set out, particularly in the GWT document, that MCC should refuse them.

We have an additional concern about vehicular access to the sites for social functions in the evening. MCC Highways has consistently maintained that the lanes can cope with any additional traffic. On the east side of the reservoir, towards Llanbadoc and Usk, the roads are narrow (mostly single track) and twisty, with poor visibility. As local residents we question their suitability for the use now proposed.

We also question whether the applicant should be seeking to pursue noisy and damaging commercial activities at these sites in view of its status as a non-profit company which is bound to operate this SSSI in conformity with the sustainability goals set put in the (Wales)Future Generations Act 2015.

### **Coed y Paen Residents Association - Object.**

- The proposals put forward by DCWW would fundamentally change the nature of this SSSI / SLA and have the potential for serious harm to its wildlife and fragile ecology, already under threat from increased and inappropriate human activity.
- In its SSSI citation, CCW recognised the threat of damage to the features of interest from 'Recreational activities', seeking to 'balance people's enjoyment of the reservoir with the needs of wintering birds'. The 'Site Event Management Plans' submitted by DCWW make clear that many of its proposed 'recreational activities' pay scant regard to the needs of the reservoir or its bird population: 'Dog shows/Christmas Fayre/classic car rally/Santa visits/Mother's Day events/ Family Fun events. DCWW 'also envisage a programme of larger events/displays...' The admission that this 'list is neither exhaustive nor exclusive' is worryingly open ended. The plan for live and amplified music, indoors and outside is alarming.
- Such activities would dramatically upset the 'balance' between people and nature. By failing to "conserve the tranquillity, unspoiled character and recreational function" recommended in your LANDMAP (2007) assessment, Llandegfedd Reservoir becomes an Entertainment Venue.
- Provision of alcohol at late night social gatherings near to water is dangerous; together with outdoor music it is likely to attract & promote behaviour inappropriate in this environmentally sensitive area. Local residents already experience huge amounts of litter; large gatherings of people results in anti-social behaviour with evidence of alcohol and drug abuse. Traffic can become intolerable.
- The need to promote a sense of physical and mental well-being has been highlighted by the intense period of the Corona Virus pandemic. Lesley Griffiths (then Minister for Environment) said "we have seen a greater appreciation of nature during the pandemic and the way in which it underpins our health, our economy and our wider wellbeing ...The Welsh Government is committed to halting and reversing the decline in nature and making sure everyone in Wales can enjoy nature from their doorstep..." The Nature Recovery Action Plan for Wales 'refreshed' for a 'post covid world' aims "to deliver the benefits for biodiversity, species and habitats, avoid negative impacts and maximise our well-being" . We request that our LPA ensures avoidance of 'negative impacts' that these DCWW proposals would inevitably deliver, as access to quiet enjoyment and appreciation of nature will be denied to visitors during organised events.
- The plethora of confusing conditions being suggested will be impossible to enforce and the valuable qualities of this SSSI put in jeopardy.
- In April 2018, the United Nations called for 'at least half the world to be more nature friendly to ensure the wellbeing of humanity '; in June 2019 our Welsh Government declared a climate emergency; in April 2021 Wildlife Trusts Wales called for new laws as 'Nature and wildlife is undergoing a mass extinction event'. DCWW's applications seem contrary to the much-stated International, National and local objectives for the future of our planet, in which the preservation of environment and natural habitat is central to our future.



- At an EGM in December 2019, Glas Cymru Holdings passed a Special Resolution under Article 2A: The purpose of the company is to provide high quality and better value drinking water and environmental services so as to enhance the well-being of its customers and the communities it serves, both now and for generations to come. Dwr Cymru are in prime position to set standards of excellence, becoming an exemplar in the pursuit and promotion of environmental objectives in Wales.
- The WG Planning Policy Post Covid 19 Recovery (2020) states: This is once in a generation opportunity for us to reset the clock and think again about the places we want to live, work and play. We need to build a cleaner, greener society ... which respects the environment' As LPA, we suggest you are in a prime position to seize this opportunity and deliver the 'Nature Based Solutions' called for by our Government.
- In considering these applications we suggest both Dwr Cymru Welsh Water and Monmouthshire LPA have opportunity to work together to champion urgent interests of the well-being of our wildlife and human communities, both now and for the future.
- A statement by DCWW 's CEO says, "we are developing our visitor attractions as hubs for health and wellbeing..." (03/2021).The plans before you suggest otherwise. In their Site Events Management Plans DCWW express their "inherent wish to ensure that this development takes place with the full consent and support of the local neighbours and stakeholders" To be clear, the local neighbours neither consent nor support such plans.

***Further comments received following the submission of over wintering bird surveys:***

We have delayed our response to allow time to study opinions from our wildlife charities. Without exception, they all conclude there is potential for harm to our wildlife and habitat. Inadequate Noise Assessments demonstrate, in addition to wildlife disturbance, potential for disturbance to privacy, amenity and health of residents, as previously experienced.

Throughout various documents, the applicant makes reference to mitigation measures, as does the somewhat muted response from Natural Resources Wales . The discussion of 'mitigation' explicitly accepts that harm will be caused; mitigation measures merely reduce its severity .

The number and complexity of conditions discussed renders them incapable of being enforced, as currently evidenced by continued and regular light pollution in breach of extant planning permission. Welsh Government Circular 2014 requires Conditions must be enforceable and your own Biodiversity Officer casts doubts over whether the DCWW Management Plans are 'enforceable documents'.

These Management / Site Event Management Plans remain as evidence of the unknown extent of Dwr Cymru's intentions to develop the Llandegfedd Reservoir SSSI / SLA into a Licensed entertainment venue . Multiple iterations of these plans state they 'supplement and reinforce ' ... perhaps in a deliberate effort to confuse. The lists of 'activities ' within these plans are 'neither exhaustive nor inclusive' ; such lists are further compounded by continuing with the statement : 'DCWW also envisages a programme of larger events ...' On any reading, it is clear that this 'carte blanche' approach to whatever activities / events / displays DCWW choose to hold at Llandegfedd SSSI, remains unchanged. The cumulative impact of these open ended ambitions utilising two buildings, two outdoor terraces, one marquee plus outdoor areas, has not been adequately addressed. Whilst statements have been made by Dwr Cymru to remove certain aspects of the planning applications, there is no evidence they will be honoured and the applications remain unchanged.

Dwr Cymru repeats its statement that "there is an inherent wish to ensure that this development takes place with the full consent and support of the local neighbours and stakeholders." We can only repeat that we neither consent nor support such plans and maintain all previous objections.

We urge Monmouthshire County Council to reject these applications and discharge its duties as LPA in line with 'FUTURE WALES - NATIONAL PLAN 2040 ' achieving climate resilience, developing strong eco-systems and improving the health and wellbeing of our communities.

5.4 Local Member Representations

Former County Cllr V Smith - I maintain my original views, do not support this new consultation. Your Biodiversity Officers Kate Stinchcombe's comments on the cumulative impact on nature and the environment of proposals are excellent.

There are numerous venues for meetings and functions locally.

Have recently been made aware of anti-social behaviour at both ends of the reservoir, raises the question as to how secure the site is, at present it is possible to walk down from the car park at night, and go wherever one pleases about the reservoir.

Please note all representations can be read in full on the Council's website:

<https://planningonline.monmouthshire.gov.uk/online-applications/?lang=EN>

## **6.0 EVALUATION**

### **6.1 Principle of Development**

The application site benefits from planning permission under ref no. DC/2012/00442 and has already been built and is occupied by DCWW. Condition 7 of the approved permission reads as follows: The premises shall not be used for the approved purposes outside the times of 7:30am to 9:00pm.

It is proposed under this application to increase the use of the visitor centre so it can be used by DCWW for a wider array of uses as well as extending the operational hours of the site to 6.00am to midnight.

The proposal does not sit neatly within a specific policy within the adopted LDP. However, it is acknowledged that the visitor centre is already in existence. Currently it operates as a first point of information for visitors to site - offering a 'Grab and Go' coffee shop facility which also acts as a point for enquiries, bookings and issue of permits for fishing, hire of boats etc. In addition, the building houses the café facility with over 100 covers both inside and outside on the wrap around balcony. In addition, management and administrative staff are housed in the building as well as storage and welfare facilities. The café facilities are open to the public at the same times as the current site opening hours. The proposed extension of opening hours and expansion of the functions of the centre does not fundamentally change the use of the building.

*Land based only* activities are currently permitted during the winter months (1st Nov - 28th Feb) due to the site being a SSSI. It is not within the gift of the Local Planning Authority (LPA) in the consideration of this application to restrict the use of the site for uses allowed (up to 28 days per year) under Permitted Development Rights. However, the number of events within the visitor centre can be controlled by condition. In this instance 12 per year is suggested as a reasonable number should Members be minded to approve the application.

Subject to no outdoor events (and no indoor events prior to the submission of a wintering bird monitoring programme – see condition 4 below) being held during the closed winter period (November to February), the cumulative impact of an event utilising a marquee (arguably not development), the visitor centre and water sports centre (which would, by its nature, be infrequent) is unlikely to have a significant adverse impact on the SSSI.

### **6.2 Visual Impact**

The application does not include any physical changes to any of the buildings or the wider site. As such, there will be no additional impact on the character and appearance on the surrounding area as a result of this application.

### **6.3 Green Infrastructure**

The area, under DCWW's ownership, comprises a Visitor Centre and water sports centre, as well as other disused buildings and areas of woodland and grassland. The site is open to the public for recreational use, predominantly for walking and water sports. It is itself therefore considered to be

a Green Infrastructure Asset that should be open to the public to enjoy. This ties into the aspirations of PPW in relation to Place Making. Places can promote social, economic, environmental and cultural well-being by providing well-connected cohesive communities. Places which are active and social also contribute to the seven goals of the Well-being of Future Generations Act (see 6.11).

#### 6.4 Biodiversity

The proposals are intended to expand the water and land based activities available to the public which will by their nature attract more people, a wider range of activities and longer duration of activities throughout the day and the year. Land only activities are currently permitted during the winter months 1st Nov - 28th Feb. The 'closed season' for the SSSI is Oct 1<sup>st</sup> - February 28th. The impacts of the proposals are predicted to arise from additional disturbance (noise, visual and lighting) that could impact on the SSSI (overwintering birds), other birds, bats, badgers and otter. Increased noise from vehicles, people and any PA systems are a particular concern for the key species noted above. Traffic could also be an issue for road mortality of species such as otter and badger.

SSSIs are of national importance. The Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000, places a duty on all public bodies, including planning authorities, to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of the features by reason of which a SSSI is of special interest. This is reflected in Planning Policy Wales... There is a presumption against development likely to damage a SSSI and this presumption should be appropriately reflected in development plans and development management decision.

The site is designated for the overwintering wildfowl that use the water and banks of the reservoir for roosting and feeding. The potentially damaging operations identified in the site citation for the SSSI include recreational activities.

The Council typically refer to NRW advice on proposals in relation to the SSSI, however during the consideration of this application a number of issues need to be addressed before the LPA, can be satisfied that there will not be an impact that will prevent the council from complying with policy and legislation. It was initially unclear from the submission which activities would be undertaken during the closed season, their frequency and the cumulative nature of the activities. The updated EclA clarifies in section 1.1: In line with the current agreement, no water sport activities are to take place on the reservoir, between 1st November and 28th February (except for Sunday during November when sailing in the southern part of the reservoir is permitted). This does not amend the current agreement where no outdoor events will occur between 1st November and 28th February.

In terms of the impact of noise on ecological habitats and protected species, noise impact assessments have been carried out by Ricardo Energy and Environment to assess the concerns that have been expressed about the potential effects of noise arising from the extended hours of use of the visitor centre which is intended to operate as a meeting space and functions venue for internal and external hire, enabling greater use by organisations and local residents. The mitigation (section 5) of the EclA states: ***No outdoor events will occur within the close season (1st November and 28th February) when the SSSI wintering bird population is present.***

The over wintering bird surveys found an increase in behavioural responses during periods where music was played externally at 100db, with flocks of mallards (an interest feature of Llandegfedd reservoir SSSI) moving away from the source of the noise. Some behavioural responses were noted in mallards at 80db located within a 90m buffer. The survey report concludes that based on the peak counts of waterfowl and number of birds observed making behavioural changes in response to noise stimuli '...it is not anticipated that elevated noise levels (up to 100dB) and the proposed modifications to planning conditions will result in significant impacts on waterfowl abundance at Llandegfedd reservoir.

It is acknowledged that the sample level for the surveys is low, with noise assessments undertaken on only three dates. In order to improve the robustness of the survey data, a survey

schedule encompassing the entire winter period would have been preferred. The failure of the submitted Wintering Bird report to draw upon any previous noise disturbance research to back up the assessment (and ultimately the conclusions) of the report undermines their reliability. Nevertheless, despite such inadequacies, with the imposition of strict management limitations that include no outdoor activities throughout the main overwintering period (November – February) and a restriction on indoor events over the same period until a wintering bird monitoring programme has been submitted to and agreed in writing by the LPA, it is considered that the application is not likely to have an adverse impact on features of the Llandegfedd Reservoir SSSI.

The key suggested conditions in relation safeguarding the overwintering bird interest of the Site of Special Scientific Interest and the Severn Estuary European Marine Site, should Members be minded to approve the application, are as follows:

*There shall be no outdoor events between 1st November and 28th February in the succeeding year.*

And;

*No indoor events between 1st November and 28th February will be permitted until a wintering bird monitoring programme has been submitted to and agreed in writing by the LPA. The monitoring programme must detail methodology to monitor the location and behaviour of wintering birds during indoor events and must include the following:*

- a) Methodologies for undertaking the bird monitoring over a five year period*
- b) Noise monitoring methodologies*
- c) Identification of early warning triggers for remedial actions if detrimental impacts are identified*
- d) Mechanisms to secure remedial actions and a commitment to suspend events if necessary*
- e) Persons responsible and lines of communication*
- f) Reporting arrangements to the LPA and NRW including a timetable capable of being rolled over for the duration of the monitoring*
- g) Review periods for monitoring methods and programme duration*

*The monitoring must be undertaken by an appropriately experienced ornithologist that is not directly employed by DCWW. The monitoring programme shall be implemented in full.*

It is critical that the results of monitoring are linked to curtailment of operations at the site e.g. reducing the dB trigger for noise limiting devices, reducing the frequency / type of events and therefore the above wording includes the addition in point (d) as requested by NRW.

In terms of other European Protected Species, a badger survey has been provided in support of the application. Impacts on this species have been screened out on the basis of their ecological importance in legislation. The management plans incorporate triggers to consider mitigation for badger should road fatalities be recorded.

Reference is made to the likely use of the north of the reservoir by otters following a survey around the water sports and visitor centres. There are opportunities for otter to maintain north-south movement in the wider catchment, however, there is some potential for increased otter road mortality associated with an increase in vehicle movements. It is noted that the site event management plans refer to monitoring of road mortality in relation to events. This needs to be linked to action if road mortality becomes an issue. A separate planning condition is recommended for this should Members be minded to approve the application.

The extended operating hours from 9pm to midnight also has the potential to increase the lighting internally from each building for an extra 3 hours per night. The latest EclA considers the potential impact of three hours of additional artificial lighting specifically for bats and otter. The assessment concludes for bats that there are additional areas of foraging/commuting habitat available and due to the nature of the site, and alternative foraging commuting areas in this high value landscape. It is also worth noting that NRW have not objected to the potential loss of the night roost in the visitor centre as the result of further lighting. It is noted that a new hedgerow has been planted, which is

welcomed. An alternative lesser horseshoe location should be offered to ensure there is no net loss of biodiversity, although this is unlikely to be a licensing requirement.

Planning Policy Wales (PPW) sets out that “planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity” (para 6.4.5 refers). This policy and subsequent policies in Chapter 6 of PPW respond to the Section 6 Duty of the Environment (Wales) Act 2016.

The currently submitted enhancement plan is insufficient for the purposes of this application. There is a lack of detail with regards to the proposed ‘new grass cutting programme’ with neither the management prescriptions, aims or location provided. Whilst promoting the growth of meadows at the site is tentatively welcomed, relying on a grass cutting programme to deter walkers seems only likely to be of use in the peak summer months. The installation of physical barriers to prevent access to the waterbody and meadow habitats would seem a far more effective solution, and potentially work to reduce disturbance of waterfowl during the overwintering period for which the SSSI is designated. Other habitat measures to offer feeding/sheltering habitat for overwintering wildfowl would be highly encouraged.

Whilst work to remove areas of overgrown willow as part of the applicant’s responsibility to maintain the SSSI is welcomed, this is currently ongoing work and as said, is part of the landowner’s responsibility for the managing the SSSI. Therefore, this cannot be considered as a biodiversity enhancement feature. No details including numbers, specification or location of the proposed bird and bat boxes have been provided. It is understood that existing nesting provision at the northern end of the reservoir have fallen into disrepair and replacing these nesting locations would be welcomed. Consequently, to meet the requirements of PPW, an Ecological Enhancement Plan will need to be submitted which includes a map detailing the location of the proposed enhancement measures. Furthermore, details including management prescriptions, aims and targeted species should be included. This can be secured via condition should Members be minded to approve the application.

As the site is within close proximity to the Severn Estuary European Marine Site (SPA, SAC, Ramsar), the Council had to undertake an Appropriate Assessment under the Habitats Regulations Assessment. This has concluded that adverse effects on the Interest Feature can be avoided or overcome by implementation of the planning condition, “*No indoor events between 1st November and 28th February will be permitted until a wintering bird monitoring programme has been submitted to and approved in writing by the LPA....*”. It is noted that NRW agreed with this conclusion in their formal consultation response. Additional Measures considered necessary to protect the integrity of the Severn Estuary EMS include conditions to secure the implementation of the following documents submitted in support of the application:

- Noise Impact Assessment on the SSSI by Ricardo Energy and Environment, Revision 1, dated 12 February 2021
- DCWW - Llandegfedd Visitor Centre - Site Event Management Plan [submitted 13 July 2022] or
- Ecological Impact Assessment, by Ricardo Energy and Environment, Issue No 5, dated 12 March 2021.
- A detailed condition is also required in relation to the monitoring that is referenced in the above documents (see detail below).

On the basis of the above, it is concluded that the project will not adversely affect the Integrity of the Severn Estuary EMS alone or in combination with any other projects subject to the agreement of the detail of the planning conditions.

On balance therefore and only subject to conditions, it is considered that the proposed additional use of the Visitor Centre will not adversely affect the SSSI itself, the European Marine Site or Protected Species and meets the requirements of LDP Policy NE1.

## **6.5 Impact on Amenity**

Policy EP1 of the LDP relates to Amenity and Environmental Protection advising that proposals that would cause or result in an unacceptable harm to local amenity, health, the character of the countryside or interests of nature conservation, landscape or built heritage due to noise pollution will not be permitted, unless it can be demonstrated that measures can be taken to overcome any significant risk. There are no residential properties within close proximity to the development, with the nearest property being located on the opposite side of the reservoir.

Noise impact assessments have been carried out by Ricardo Energy and Environment to assess the concerns that has been expressed about the potential effects of noise arising from the extended hours of use of the visitor centre which is intended to operate as a meeting space and functions venue for internal and external hire, enabling greater use by local residents. As the nearest residential property is located over 400m from the facility any noise generated from the facility will have a negligible effect on the amenity of any residents.

The Council's Environmental Health Officer has commented that they have no objections to the application. Although as agreed by the applicant and detailed in both their noise impact assessments and site management plans, they would suggest that if planning permission is granted, the following conditions be included;

1. Outdoor events are limited to 12 per year and must finish, including the use of amplified recorded music and PA systems no later than 5pm.
2. All outdoor events be subject to a noise management plan submitted by the applicant to be approved by the Local Planning Authority.
3. All indoor events at both the visitors centre and the water sports centre, including any amplified recorded/live music should finish no later than 11pm.

It is agreed that the suggested conditions nos. 1 and 3 above should be attached to any consent that Members are minded to approve. However, with regards to point 2, given the other restrictions suggested to limit noise (see paragraph 6.4 above), to require a noise management plan for every outdoor event would be too onerous on the developer and would not be necessary.

The development is therefore considered to meet the requirements of LDP Policy EP1.

## **6.6 Highways**

### 6.6.1 Sustainable Transport Hierarchy

Due to the rural location of the reservoir, there are no public transport links to the site. However, given that the site is mainly for recreational purposes this is not unusual and it has to be accepted that most visitors will access the site using a private motor vehicle.

### 6.6.2 Access / Highway Safety

Vehicular access into the site is from the south via the private road which runs along the periphery of the reservoir. The access road leads past a manned gatehouse and then follows the reservoir edge to the water sports area where there are slipways, mooring and storage facilities and parking areas. The access road is gated and connects with the adopted highway to the south, providing access to Wellfield Close and the identified parking area associated with the reservoir to the east and Sluvad Road to the west. The latter is accessed via the road which runs along the reservoir's dam wall. No changes to the existing access arrangements are proposed as part of this planning application.

This application has the potential to increase vehicular traffic to and from the reservoir, however, this will be negligible when considering the number of vehicular movements associated with the current use of the facilities. MCC Highways did not raise any objections to the previously submitted S73 application and it was agreed that the later opening hours would not cause any detrimental highway impacts. The site gates will continue to be locked at night and the site secured with

overnight security. On this basis, the application is considered to be compatible with relevant chapters of Planning Policy Wales and LDP Policies S16 and MV1.

### 6.6.3 Parking

A large car parking facility is provided on a plateau, to the south-east of the visitor facility. There is no direct vehicular or pedestrian access to the water's edge from the car park although the public are able to access the grassed and wooded areas above the reservoir. An additional parking area is provided adjacent to the visitor facility's southern elevation. It is considered that this level of parking is adequate for the increased use of the visitor centre.

## **6.7 Drainage**

### 6.7.1 Foul Drainage

No changes to the existing foul drainage are proposed as part of this development.

### 6.7.2 Surface Water Drainage

There will be no changes to surface water drainage as a result of this application.

## **6.8 Response to the Representations of Third Parties and/or Community/Town Council**

In reviewing the above objections, it is clear the principal concerns to the application include the following:

- Impacts on biodiversity, specifically concerns on impact on SSSI status as a result of increased activity, lighting and noise.
- Future management of site from an environmental perspective.
- Increase in traffic and insufficient parking provision.
- Noise pollution and general increased public nuisance.
- Public safety concerns - danger of licensed venue next to open water.
- Security concerns (i.e. managing events on site).
- Negative impact on rural economy (i.e. other venues in close proximity).

The potential for 'general increased public nuisance' is considered to be of low relevance in terms of planning as the potential behaviour of the public is not a material planning consideration but should be managed under other legislation (Environmental Health and Health & Safety) as well as the operator of the site. The facility is located within an area which is open to members of the public and the building can already be occupied until 9pm. The majority of the additional meetings and activities taking place will be within these defined hours.

On the occasions where the centre will need to be occupied for a longer period of time, the impact is considered to be low, especially given the continued restriction on when events can take place. A condition preventing any outdoor events over the winter months will ensure that the additional use of the building will not adversely affect the population of overwintering birds. Furthermore, restrictions on the number of outdoor events per year and time restrictions on music for both indoor and outdoor events will prevent noise pollution. It is considered that conditions to this effect can be effectively monitored and enforced by the Council's Enforcement Team and Environmental Health Team. The SSSI also affords its own protection under separate legislation.

In terms of the deficiencies of the noise disturbance report and over wintering bird surveys referred by, amongst others, Gwent Ornithological Society, GWT and Torfaen CBC's ecologist, the noise disturbance assessment was based on the 69 decibels (dB) of noise estimated at point E (within the SSSI boundary) due to outdoor events at the water sports centre (see Noise Assessment Report1 ) and a maximum of 100 dB as part of this noise assessment conducted was deemed sufficient. The noise assessment methodology had been agreed with Monmouthshire Council's Environmental Health Department based on the scope of work. *Furthermore, since the noise surveys were conducted, the applicant has confirmed that there will now be no events with*

*external music at the reservoir.* On this basis, any noise generated by the extended use of the building will be below the level used to draw the conclusions in the noise report and will therefore have less of an impact on local residential amenity and wildlife than expected.

A total of 10 wintering bird surveys were undertaken between October 2021 and March 2022. Although it had been previously requested by the Council's Biodiversity Officer that two wintering bird surveys per month were undertaken, during both October and December 2022 only a single survey was undertaken. Instead, the bird survey submitted by the applicant compares outputs of the 2021/22 wintering survey to publicly available WeBS data to note discrepancies and similarities in the absence of repeated surveys.

Due to the scope of the wintering bird surveys, surveys of the northern extent of the reservoir were largely undertaken at Pettingale hide (three surveys). By repeating surveys at Pettingale hide, this allowed comparison with surveys conducted from the Visitors and Watersports Centre. In addition, Pettingale hide provides greater area coverage in comparison to Bert Hamar hide (1 survey completed) that has a restricted view due to vegetation. The Council's Biodiversity Officer has indicated that they are comfortable that the two vantage points are sufficient for accurately recording behaviour and activity levels on the main body of the reservoir.

In terms of large numbers of black headed gulls referred to, peak counts of 400 black-headed gulls were recorded from Pettingale hide and the survey methodology of the local birdwatcher is likely to vary from what was conducted on behalf of the applicant. MCC's Biodiversity Officer commented that while more dusk surveys should have been incorporated into the survey programme, overwintering roosts of black-headed gulls are not a feature of the SSSI or Severn Estuary Marine EPS, and therefore do not have legal protection from disturbance. Nevertheless, the restriction of outdoor events during the winter period (see condition no.3 below) should ensure that the roosts are unaffected by the application.

It is acknowledged by NRW and the Council's Biodiversity Officer that elements of the survey methodology and reporting mean that there remain elements of doubt with regards to robustness of the submitted survey data. Nevertheless, despite such inadequacies, with the imposition of strict management limitations that includes no outdoor activities throughout the main overwintering period (November – February), on balance it is considered that the application is not deemed likely to have an adverse impact on features of the Llandegfedd Reservoir SSSI. This conclusion is shared by NRW who are the statutory advisor to the Local Planning Authority on such matters.

The removal of the outdoor live or recorded music element of the proposed use is included in the latest Management Plans submitted by the applicant. Both NRW and the Council's Biodiversity Officer advise that the management plans should be referred to as approved documents in any approval notice. On this basis, the contents are part of the approval and will be binding on the applicant and therefore no further mechanisms to restrict outdoor music are considered necessary.

Concerns have also been made with regard to the impact on the rural economy and in particular other venues in close proximity. The nearest venue that offers space that could be used for meetings, functions and events is the Carpenter's Arms in Coed-Y-Paen. Whilst there are therefore overlapping services that each would offer, the two venues are not directly comparable, and both would offer various other services and functions that the other does not. Policy CRF1 of the LDP seeks to retain existing facilities for communities rather than preclude other sites providing some comparable services. PPW also makes it clear that it is not the role of the planning system to restrict competition. It is recognised that the Carpenter's Arms, as well as other such facilities in the wider rural area, provide an essential element in promoting the quality of life in, and sustainability of, local communities and having regard to the limits on events, particularly those outdoors, that would be secured through the conditions set out in Section 7 below, it is considered that the proposal would not significantly adversely impact upon the rural economy or existing community facilities – most of which would not have such restrictions on events as proposed in this instance, such as outdoor events and music.

In terms of safety of people under the influence of alcohol and during the hours of darkness being near the water, this would be a Health and Safety issue that would be managed by the operator.



It is unlikely that the increased use would have an impact on water sports users as the two activities would not overlap. For example, the equipment stores and changing areas would not be used for corporate events or weddings.

## **6.9 Well-Being of Future Generations (Wales) Act 2015**

The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

## **6.10 Conclusion**

Subject to the conditions listed below, it is considered that the proposal to increase the use of the visitor centre is in accordance with national and local planning policies and will not harm the amenity of local residents or the qualities of the SSSI.

## **7.0 RECOMMENDATION: APPROVE**

### **Conditions:**

1 This development shall be begun within 5 years from the date of this permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

2 The development shall be carried out in accordance with the list of approved plans set out in the table below. [N.B. This will include the site management plans]

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

3 There shall be no outdoor events between 1st November and 28th February in the succeeding year.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and the Severn Estuary European Marine Site.

4 No indoor events between 1st November and 28th February in the succeeding year shall be permitted until a wintering bird monitoring programme has been submitted to and agreed in writing by the LPA. The monitoring programme shall detail an implementation timetable, methodology to monitor the location and behaviour of wintering birds during indoor events and must include the following:

- a) Methodologies for undertaking the bird monitoring over a five year period
- b) Noise monitoring methodologies
- c) Identification of early warning triggers for remedial actions if detrimental impacts are identified
- d) Mechanisms to secure remedial actions and a commitment to suspend events if necessary
- e) Persons responsible and lines of communication
- f) Reporting arrangements to the LPA and NRW including a timetable capable of being rolled over for the duration of the monitoring
- g) Review periods for monitoring methods and programme duration

The monitoring must be undertaken by an appropriately experienced ecologist that is not directly employed by DCWW. The approved monitoring programme shall be implemented in accordance with the approved timetable and managed as such in perpetuity.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and the Severn Estuary European Marine Site.

5 Within 3 months of the extended use commencing, a scheme for the monitoring of Sluvad Road within 800m of the site entrance gate for evidence of Otter or Badger mortality shall be submitted to the LPA. The scheme shall include methods including recording and reporting mechanisms. In the event that any mortality is discovered it will be recorded and reported to Monmouthshire County Council Ecology Officer. The scheme shall include details of thresholds for when remedial measures shall be agreed with the LPA and shall also include an implementation timetable. The approved scheme shall be implemented in accordance with the approved timetable and managed as such in perpetuity.

REASON: To safeguard species of conservation concern.

6 Prior to the approved use commencing, a plan of Ecological Enhancement which provides biodiversity net benefit at the site shall be submitted to an approved in writing by the Local Planning Authority. The scheme shall include future management and an implementation timetable. The enhancements shall be implemented in accordance with the approved timetable and managed as such in perpetuity.

REASON: To provide ecological net benefit on the site as required in Planning Policy Wales Edition 11.

7 The use of the Visitor Centre shall be in strict accordance with the avoidance & mitigation measures detailed in the following documents:

1 Noise Impact Assessment on the SSSI by Ricardo Energy and Environment, Revision 1, dated 12 February 2021

2 DCWW - Llandegfedd Visitor Centre - Site Event Management Plan [submitted 13/07/22]

3 Ecological Impact Assessment, by Ricardo Energy and Environment, Issue No 5, dated 12 March 2021.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and the Severn Estuary European Marine Site.

8 There shall be no more than 12 outdoor events in any calendar year and these shall finish no later than 17.00. Any such events shall not begin before 07.30.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and the Severn Estuary European Marine Site and local residential amenity in accordance with LDP Policy EP1.

9 All indoor events, including any amplified recorded/live music shall finish no later than 23.00. Any such events shall not begin before 07.30.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and the Severn Estuary European Marine Site and local residential amenity in accordance with LDP Policy EP1.

10. The extended hours, permitted by this planning permission, shall not be commenced until a scheme for external lighting has been submitted to and agreed in writing by the Local Planning Authority. Internal and external lighting shall be designed to minimise light spill and ensure that no light spills onto the water of the reservoir or into existing trees adjacent to the proposed site. The external lighting of the development and measures to avoid light spill from the building itself shall be carried out and maintained in accordance with the approved scheme which shall include provision for the lighting scheme to be monitored during the first 12 months of its use and for such modification as may be required to be submitted for the prior written approval of the Local Planning Authority and thereafter implemented and maintained in perpetuity.

REASON: To protect the interests of ecology including protected species and in the interest of safeguarding the features of Llandegfedd Reservoir SSSI.

11. No more than two concurrent events shall take place at any one time.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and the Severn Estuary European Marine Site and local residential amenity in accordance with LDP Policy EP1.

12. No outdoor amplified music shall be used at the site.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and the Severn Estuary European Marine Site and local residential amenity in accordance with LDP Policy EP1.

## **INFORMATIVES**

- 1 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.
- 2 For the purposes of condition no.11, an 'event' is defined as any event included in the DCWW Site Event Management Plan Visitors Centre (13<sup>th</sup> July 2022).

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**Application Number:** DM/2020/00763

**Proposal:** Full planning application for the change of use of the water sports facility at Llandegfedd to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00317

**Address:** Water Sports Centre, Llandegfedd Water Sports Centre, Croes-gweddyn Road, Coed-y-Paen

**Applicant:** Mr Mark Davies

**Plans:** Other Ecological Impact Assessment - version 5, Other Otter Report - , Location Plan Location Plan

## **RECOMMENDATION: APPROVE**

Case Officer: Ms Kate Bingham  
Date Valid: 13.07.2020

### **1.0 APPLICATION DETAILS**

#### **1.1 Site Description**

This application has been submitted on behalf of Dwr Cymru Welsh Water (DCWW) in respect of the change of use of the water sports centre at Llandegfedd to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00442. The application is submitted to grow the water and land-based activities at the site for all users under Dwr Cymru Welsh Water's strategy for health and well-being in conjunction with Welsh Government.

The site is situated on the eastern side of the Llandegfedd Reservoir. The reservoir sits at an approximate elevation of 80m and comprises 174ha of standing open water. The facility serves a variety of recreational interests, including water sports, in addition to nature conservation responsibilities and its primary function as a public water supply reservoir. The reservoir itself is designated as a Site of Special Scientific Interest (SSSI) of importance for its wintering bird population and the area around the reservoir includes grassland, important for feeding and roosting wildfowl, woodland and scrub.

Due to the building's use as a water sports facility, the site is positioned adjacent to the reservoir, to the south of the existing visitor centre, with an area of hardstanding providing access down towards the reservoir along the building's western elevation.

The reservoir, built in the 1960s, straddles the boundary between Monmouthshire and Torfaen and is accessible from the main road network serving Usk/Pontypool/Caerleon via a network of minor roads.

The site is currently occupied by the two-storey water sports facility and associated landscaping. The building itself measures 320m<sup>2</sup> and sits within the wider site which was approved under outline permission. The topography slopes gradually from east-to-west down towards the reservoir.

The current building replaced the previous inadequate modular accommodation that served a long-established water sports school and sailing club and has been a successful addition to the area providing a number of land and water-based activities including team-building, windsurfing,

dinghy sailing, stand-up paddle-boarding, canoeing, kayaking and raft building. The ground floor of the building comprises of rescue craft, equipment storage and changing room facilities while a large multifunction clubhouse room on the first floor spills out onto a balcony which runs along the northern and western elevation in order to capture views out towards the reservoir. This multifunctional room is of a sufficient size and construction to allow meetings and functional gatherings to take place, although this is not currently possible due to the planning condition imposed on the previous planning permission.

## 1.2 Value Added

Various additional ecological and noise surveys were requested and supplied to enable NRW, Environmental Health and the Council's Biodiversity Officer to accurately assess the proposal.

Over-wintering bird surveys undertaken in 2021/22 were submitted to inform the application.

Proposals to hold events with external music have been removed from the management plans in response to concern regarding local residential amenity and impact on the SSSI.

## 1.3 Proposal Description

The water sports facility currently benefits from planning permission under ref no. DC/2012/00317, approved on the 11th December 2012, comprising of changing room facilities, equipment store, shop and multipurpose function room.

Condition 6 of the approved permission reads as follows:

The premises shall be used solely in association with the operation of the water sports facilities at the site. For the avoidance of doubt the building shall not be available as a licensed premises for use by the general public.

Condition 7 of the approved permission reads as follows:

The premises shall not be used for the approved purposes outside the times of 9:00am to 9:00pm.

The above conditions were imposed on the planning decision to ensure that no alternative use is made of the premises which is likely to harm residential amenity and in the interest of nature conservation. However, there are many days in the water sports season (1st March to 31st October) when the multi-functional room, referred to in the description of development, is not in use. During the off season (1st November to 28th February) the existing planning conditions mean the building should not be used at all. The intention of this application, therefore, is to promote flexible use of the building to reduce the periods when the building is unoccupied and to make the facility an ongoing asset to DCWW and to expand the services on offer at Llandegfedd reservoir. It is proposed under this application to increase the use of the facility so it can be used by DCWW for a wider array of uses as well as extending the operational hours of the site from 06:00 to 00:00.

Currently the water sports centre operates as a base for a number of water sports activities run directly by DCWW site teams or under license to DCWW by a number of clubs and license holders. These activities include:

- Sailing - run through RYA approved courses and activities by DCWW.
- Paddle boarding - available for groups, individual hire or seasonal permits.
- Kayaking/Canoeing - available for individual hire and also carried out as activities by user groups such as Torfaen Cadets and Newport Sea Scouts.
- Activity Sessions - DCWW organises tuition and activities for school and organised groups to sample a range of the water-based activities.
- Holiday Activities - DCWW runs a season long programme of activities for children during school holidays.

- Birthday Parties - a range of activities are available for private hire options with tuition in water sports activities or raft building activities. Use of the upstairs function room is often included with this option for party food etc.
- Corporate team building events - including a mix of all the above-named activities as well as utilising some land-based activities (for example: orienteering).

There is a portable pontoon and a number of slipways located in the "Sailing bay" area at the front of the Water Sports Centre and vessels are all launched from this location. DCWW enforces a strict health and safety regime and all users are supervised by the Water Sports centre team who also provide sufficient safety cover on the water in conjunction with the Ranger team based out of the Visitor Centre. Changing and toilet facilities are all available in conjunction with the above uses.

The building also contains a multi-use room on the ground floor which is used for training and courses and is made available via a booking system for use by license holders such as the Sailing Club, Cadets etc. Currently the well-equipped function room located on the first floor of the building with its panoramic balcony is precluded from regular use due to the current planning conditions and is effectively precluded from any use at all during the winter. The applicant considers that this is an unsustainable position for its ongoing operations.

In addition to maintaining and growing all of the above specified uses in partnership with the key local stakeholders, DCWW has further ambition to add additional water and land-based activities to the mix of uses on the entire site. These will include:

- open water swimming - DCWW has approved Llandegfedd as a pilot site to trial managed open water swimming sessions in conjunction with local community swimming and triathlon clubs
- Further child-based activities such as "zorbing"
- Laser Clay pigeon shooting - available to hire as part of a group or corporate activity
- Segways

In addition to the above uses, this change of use application would also allow DCWW to use the Water Sports facility for a range of meetings, functions and similar activities such as the below;

- Meetings; DCWW employee meetings ranging from team meetings, management and project meetings to Board of Directors meetings
- External groups - the spaces could be used as a hireable space for meetings and events held by a range of groups
- Sporting Groups - as part of pre or post activity socialising.
- General public; functions for local organisations and family occasions
- Community engagement
- Wildlife / environmental rambles and other specialist groups

It would be intended that the first-floor room could be made available at programmed times year-round to maximise its potential use by the widest possible range of users and community groups.

The terrace on the Water Sports centre would be used as an overspill area in conjunction with the use of the meeting room. The terrace will not be accessible during functions after 11pm. The numbers would be limited by the fire regulations to the building. It is also proposed under this application to extend the opening hours from 09:00am - 9:00pm to 06:00am - midnight to ensure further flexibility for DCWW. The outdoor terrace area would only be used as an overspill area in conjunction with the use of the meeting room.

The above uses would not require any alteration to the building itself, only an extension to the use of the building. Any functions would be catered for by existing facilities i.e. on-site catering facilities, toilets and car parking areas.

The intention of the applicant to make better, more efficient use of DCWW's facility for meetings and gatherings and to allow local people and businesses to visit to make the facility a better asset to DCWW and to expand the services on offer at the reservoir.

There is a concurrent application to also extend the use of the visitor centre submitted under planning application no. DM/2020/00762. The visitor centre and water sports facilities will be used independently throughout the year and for the majority of events, but could be used concurrently should a larger event be required to use the entire reservoir site. However, this is likely to be infrequent.

## 2.0 RELEVANT PLANNING HISTORY

Reference Number	Description	Decision	Decision Date
DC/2012/00317	Proposed Watersports Centre comprising changing room facilities, equipment store, shop & multipurpose function room	Approved	11.12.2012
DM/2018/00718	DCWW wish to provide a shed for use by the Angling Club to store equipment and to act as a weighing station during competitions.	Approved	25.06.2018
DM/2020/00035	Removal of condition 6 and to vary condition 7 (to extend opening hours to 6:00am to 00:00am) relating to planning application DC/2012/00317.	Withdrawn	18.06.2020
DM/2020/00036	Modification of condition no. 7 of planning permission DC/2012/00442 (hours of operation).	Withdrawn	18.06.2020
DM/2020/00762	Full planning application for the change of use of the visitor centre at Llandegfedd, to allow the building to be used for meetings, functions and events and to extend the opening hours approved under planning permission DC/2012/00442.	Pending Determination	
DC/2015/01039	A new boat store and ranger maintenance buildings are required to support a recently completed Water Sports and Visitor Centre for Welsh Water at Llandegfedd Reservoir. These will be two detached buildings located adjacent to the existing buildings. A new play area is also proposed that will enhance the facilities available to children. This will be located within existing amenity grassland and will be broken in to two small 'play spots'.	Approved	21.12.2015



DC/2016/00742	Discharge of condition 7 (details of play equipment) from previous application DC/2015/01039 for new boat store and ranger maintenance buildings	Approved	19.07.2016
DC/2016/01011	Minor changes to the elevations to previous application DC/2015/01039.	Approved	15.09.2016
DM/2018/01199	Variation of condition No. 6 and No. 7 of planning permission DC/2012/00317.	Withdrawn	03.06.2019
DC/2016/01355	Addition of external steel stair to the north west elevation of the building. (Relating to previous planning application DC/2012/00317).	Approved	28.11.2016
DC/2016/01011	Minor changes to the elevations to previous application DC/2015/01039.	Approved	15.09.2016

### **3.0 LOCAL DEVELOPMENT PLAN POLICIES**

#### Strategic Policies

S8 LDP Enterprise and Economy  
S10 LDP Rural Enterprise  
S11 LDP Visitor Economy  
S13 LDP Landscape, Green Infrastructure and the Natural Environment  
S16 LDP Transport  
S17 LDP Place Making and Design

#### Development Management Policies

EP1 LDP Amenity and Environmental Protection  
EP3 LDP Lighting  
DES1 LDP General Design Considerations  
MV1 LDP Proposed Developments and Highway Considerations  
GI1 LDP Green Infrastructure  
NE1 LDP Nature Conservation and Development

### **4.0 NATIONAL PLANNING POLICY**

#### Future Wales - the national plan 2040

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales - the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

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The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

## **5.0 REPRESENTATIONS**

### **5.1 Consultation Replies**

**Torfaen County Borough Council** - The following is Torfaen County Borough Council's response to the consultation. The response relates to both applications:

The Council's Highway Officer does not object to the proposed scheme and has stated that the highway network within Torfaen County Borough Council that serves the site is satisfactory to accommodate the use.

The Council's Public Health Team have stated there is the potential for events to create noise nuisances which could have a detrimental effect on the amenity of Torfaen residents. The Officer has recommended that a Noise Impact assessment is carried out in line with TAN 11 and BS4142 2014 (2) and, if necessary, should include proposals for mitigating excessive noise. Alternatively, they have recommended that a condition could be set by the LPA to limit event noise levels at residential homes to not exceed the current L90.

The Ward Councillor has raised concerns in regard to the increased levels of traffic, noise disturbance, the over-development of the reservoir as an SSSI site and the potential safety issue of an /entertainment venue with an alcohol license within proximity to the body of water. They state that the country lane is used by cyclists and pedestrians, with no available footpaths the increase in traffic would increase the risk for all users.

The Council's Ecologist wishes to register a holding objection and has requested that the applicant submits further information. The Council's Ecologist has requested further ecological survey work to appropriately assess the impact of the proposals upon the designated features of both the Llandegfedd Reservoir (SSSI) and the Severn Estuary Special Protection Area (SPA)/Ramsar Site. They have advised that the Ecology Report (Ricardo Energy and Environment 2020) does not provide sufficient detail by which to assess the impact of the proposals upon a site of national importance and another of international importance, and therefore fails to satisfy the requirements of national planning policy. Full details are included in the consultations section below.

An objection is raised to the development due the lack of information in relation to the ecological survey as per the comments from the Council's Ecology Officer.

In summary, it is considered that the Ecological assessment carried out does not provide sufficient detail to assess the impact of the proposals upon the sites of national and international importance. There is also concern that no formal noise assessment has been carried out in accordance with TAN 11 and BS4142 2014 (2). Alternatively, we would request a condition to limit event noise levels at residential homes to not exceed the current L90.

### **Further comments from Torfaen CBC's Ecology Officer following submission of over-wintering bird surveys:**

Whilst I acknowledge the report as a useful contribution to our understanding of the growing anthropogenic disturbance at this Site of Special Scientific Interest (SSSI) its limitations as set out in section 1.5 are, in my opinion, significant enough to question whether it satisfies the

requirements of Planning Policy Wales Edition 11 2021 section 6.4 Biodiversity and Ecological Networks.

It is noted that three survey visits 27th October 7th and 28th March were disrupted by water sports activities and that the prevailing weather conditions on five (5) other dates also limited the collection of data. So, in total eight (8) out of the 11 visits were identified as having limitations. I am therefore surprised that, a) water- based activities were not suspended during survey sessions to ensure disturbance was minimised, and b) where disturbance and weather conditions were influencing factors why replacement survey dates were not considered. For this reason alone, I am concerned that the Wintering Bird Survey lacks the scientific rigor necessary to adequately inform a planning proposal on or adjacent to a Site of Special Scientific Interest and therefore doesn't meet the requirements of Planning Policy Wales regarding the protection of a nationally important site. Section 6.4.14 of Planning Policy Wales states:

Statutory designation of a site does not necessarily prohibit development, but proposals must be carefully assessed (my emphasis) to ensure that effect on those nature conservation interests which the designation is intended to protect are clearly understood; development should be refused where there are adverse impacts on the features for which a site has been designated. International and national responsibilities and obligations for conservation should be fully met, and, consistent with the objectives of the designation, statutorily designated sites protected from damage and deterioration (my emphasis) with their important features conserved and enhanced by appropriate management.

I am concerned that any recommendation to approve planning consent based on the conclusions of the Wintering Bird Report and the poor ecological enhancement proposals will fail to meet the terms of planning policy. Including:

- o Due to its limitations the Wintering Bird Report is unreliable and therefore insufficient to address the impacts on a site that must be regarded as stepping stone feature for Severn Estuary SPA/Ramsar site.
- o Due to its limitations the Wintering Bird Report is unreliable are therefore fails to satisfy the requirements of Planning Policy Wales regarding potential cumulative impacts on a nationally important SSSI.
- o The enhancement proposals are of insufficient detail to satisfy the step-wise approach to maintaining and enhancing biodiversity as set out in para 6.4.21 of Planning Policy Wales. Can the applicant clearly demonstrate that the step-wise approach has been applied to this proposal?
- o Is the planning authority satisfied that this proposal meets all the aspects of the public bodies biodiversity and resilience of ecosystems duty as set out in section 6 of the Environment (Wales) Act 2016 and reiterated in section 6.4.5 of Planning Policy Wales?

Finally, the reasons set out above I wish to maintain my holding objection.

**Llanbadoc Community Council** - Recommend refusal. The council maintains its previous objections.

**Llangybi Fawr Community Council** - Object. The Community Council has grave concerns regarding these applications as have been outlined several times before when similar applications have been submitted. This application to vary the use and opening times of the Visitor Centre from that granted in earlier application DC/2012/00442, and seeks to achieve the same effect as the earlier withdrawn application DM/2020/00036. This application mirrors application DM/2020/00763, which seeks to achieve the same variation in use and hours of opening for the adjacent Water Sports Centre, and our objections to this application are the same as those we are raising with regard to that application.

Llandegfedd Reservoir is a unique site of special scientific interest (SSSI) in the counties of Monmouthshire and Torfaen, and to propose to use the centre for large public events with

accompanying loud music during long hours of darkness is to have scant regard for its special status as a tranquil refuge for a variety of wildlife.

The applicants seek to justify their proposals for events with loud musical accompaniment by submitting a supposedly independent noise impact assessment that suggests a very limited impact on wildlife. This assessment appears to us to be deficient in a number of aspects. For example, it only considers noise generated inside the centre, whereas the applicants state that their intention is to erect a marquee nearer the water for larger events. It is very probable that this will be a significant source of noise, especially if the music is relocated or relayed to it. Moreover, their assumption regarding the attenuation of noise generated inside the centre is not valid if, as might be expected, the doors and windows will be open. We suspect that the noise (and other intrusions from light and movement of people) will have a greater impact on the wildlife than is implied. Better qualified representatives than us, from Natural Resources Wales, Gwent Wildlife Trust and Gwent Ornithological Society will no doubt express their views on this.

We are particularly concerned about the safety aspects of this proposal. Locating alcohol-fuelled events in close proximity to a large and deep expanse of water seems to be inviting disaster, especially during the hours of darkness. Personal experience suggests that staff at the reservoir are not able to keep dogs and even people out of the water in daylight hours, so it isn't clear how they would manage it in darkness with a large and noisy event taking place.

The reservoir and the watersports centre provide a unique facility in the area for a variety of water-based activities. On the other hand, there is no shortage of venues locally for the kind of event that Welsh Water is now contemplating for the centre, and in far safer locations. They should be using the centre to build on its primary use of water-based activities.

For these reasons we oppose the application to vary the conditions. We also request that the application be considered by the full Planning Committee and that the Community Council be afforded the opportunity to speak at that meeting.

***Further comments received following the submission of over wintering bird surveys:***

The attempt by DCWW to vary the conditions of operation of the Water Sports Centre has been through several iterations, and each time Llanybi Fawr CC has objected on various grounds. We repeat them below for information. The reservoir is a tranquil and beautiful rural location and provides a recreational venue where young and old can learn and practice a range of water-based skills or merely walk or relax in the beauty of the surroundings. Condition 7 was imposed in order to control the use of the facility by restricting its hours of opening and only for the uses specified. The reason given for this restriction was "to ensure that no alternative use is made of the premises that is likely to be a nuisance to local residents." In our view, this application fails to meet the requirements of the following LDP Policies:

NE1 Nature Conservation and Development  
EP1 Amenity and Environment Protection  
EP3 Lighting ]  
DES2 Areas of Amenity Importance

Llandegfedd Reservoir is an SSSI because of importance inter alia as an overwintering site for waterfowl including species under threat. Policy NE1 requires that development proposals that would have a significant adverse effect on a locally designated site of biodiversity and / or geological importance, or a site that satisfies the relevant designation criteria, or on the continued viability of priority habitats and species, as identified in the UK or Local Biodiversity Action Plans or Section 42 list of species and habitats of importance for conservation of biological diversity in Wales, will only be permitted where: a) the need for the development clearly outweighs the nature conservation or geological importance of the site; and b) it can be demonstrated that the development cannot reasonably be located elsewhere.

The proposal to hold weddings and parties at the site, especially outside the hours of daylight with music indoors and outside would have a severe detrimental effect on the site as a tranquil location for the waterfowl and other fauna such as badgers and otters which are known to frequent the site.

Policy EP1 seeks to prevent development proposals that would result in unacceptable risk or harm due to air, light, noise or water pollution, contamination or land instability. The policy requires that any development should have regard to the privacy, amenity and health of occupiers of neighbouring properties. More specifically the policy requires that any development proposals that would cause or result in an unacceptable risk /harm to local amenity, health, the character /quality of the countryside or interests of nature conservation, landscape or built heritage importance due to the following will not be permitted, unless it can be demonstrated that measures can be taken to overcome any significant risk including light pollution, noise pollution, and any identified risk to public health or safety. Llandegfedd Reservoir is located in a quiet rural location and as such is a popular venue for those seeking quiet and tranquillity. It is difficult to envisage how events under the proposed new use of the centre, e.g. weddings and parties of all descriptions, could take place without causing light and noise pollution to the detriment of local residents and visitors. There would be additional traffic on our quiet and narrow country roads, especially possibly very late at night.

Policy EP3 emphasises the importance of minimising the intrusiveness of any external lighting. Very stringent requirements were imposed in the approval of the original application, regarding light spill onto the water. Because of the restricted hours of operation in condition 6, little or no exterior lighting was required. Events taking place later than the current 9.00 pm deadline will require significant additional exterior lighting at the waterfront as well as the carpark and footpath down the hillside. In addition, such events held with the provision of alcohol, present a significant health and safety risk to those attending, considering the proximity of a deepwater facility and the presence of watersports equipment.

DES2 relates to areas of amenity importance. and specifies conditions under which development proposals may be permitted. DES2(a) requires that there is no unacceptable adverse effect on the visual and environmental amenity of the area. Events of the nature proposed with their attendant noise and potential light pollution would have a severe detrimental effect on the amenity of the site and surrounding area. DES2(c) requires that there is no unacceptable adverse effect on the role of the area as a venue for formal and informal sport, general recreation and as community space, expressed in terms of actual usage and facilities available. The current proposal, by definition, in denying watersports users exclusive access to the centre, will have a detrimental effect on the site as a venue for sport. The site currently provides a range of learning courses for all, especially youngsters, teaching valuable skills about various watercraft and also how to stay safe on and in the water. Any curtailment of these facilities would be a significant loss.

Lastly, DES2(e) is concerned with the nature conservation interest of the area, through damage to, or the loss of, important habitats or natural features (policy NE1 applies). We have already explained our concerns regarding this development proposal under Policy NE1 above.

Since the permission for the construction of the building was granted in 2012, the Wales Government has passed the Well Being of Future Wales Act. We question whether the current proposals set out by DCWW meet the Act's requirements for a healthier Wales and a more globally responsible Wales especially having regard to the threats to the fauna of this site which plays a crucial role in preserving the biodiversity of our beautiful county.

Finally having read the several management plans it is not clear that there is any commitment to ensure that functions will be policed sufficiently to intervene when events might get out of hand. By the time action is taken, local residents may be severely inconvenienced and irreparable damage may be done in terms of bird disturbance of this critical SSSI. For these reasons we urge that this application should be refused.

**Natural Resources Wales (NRW) – No objection subject to conditions.**

**18/10/22** - We note that the undated Site Event Management Plan, has been updated and is now titled Watersports Management Plan, dated 13th July on Monmouthshire Planning Portal. We are satisfied with the details in the plan and advise that the updated plan is included in the approved plans and documents condition on the decision notice.

In summary our advice is that we continue to have concerns with the application as submitted.

However, we are satisfied that these concerns can be overcome if the documents identified below are included in the approved plans and documents condition on the decision notice:

- Environmental Noise Assessment Report, by Ricardo Energy and Environment, February issue 1, dated 8 February 2021
- Watersports Management Plan, dated 13th July on Monmouthshire Planning Portal.
- Ecological Impact Assessment, by Ricardo Energy and Environment, Issue No 5, dated 12 March 2021.

Please note, without the inclusion of these documents we would object to this planning application.

**20/06/22** - We are satisfied that concerns can be overcome if the documents identified below are included in the approved plans and documents condition on the decision notice:

- Noise Impact Assessment on the SSSI by Ricardo Energy and Environment, Revision 1, dated 12 February 2021
- Site Event Management Plan – Visitors Centre – undated
- Ecological Impact Assessment, by Ricardo Energy and Environment, Issue No 5, dated 12 March 2021.
- Ecological Impact Assessment (EclA), prepared by Ricardo Ecology & Environment ED12587100, Issue Number 5, Date 12 March 2021

Please note, without the inclusion of these documents we would object to this planning application.

#### Impacts on Llandegfedd Reservoir Site of Special Scientific Interest (SSSI)

The Llandegfedd Reservoir SSSI is designated for overwintering wildfowl, particularly wigeon, pochard and mallard. The area around the reservoir includes grassland, important for feeding and roosting wildfowl, woodland and scrub.

We have reviewed the additional information submitted in support of the application: the Wintering Bird Survey Report, by Ricardo, reference ED15876, dated 14/4/22. We welcome the survey work to provide a baseline for the sound/disturbance survey and overall, we agree with its conclusions. However, we note the relatively small number of birds present during the surveys near the Visitor and Water sports Centres – e.g. the 11% of coot being disturbed being from a sample of nine coots. Given that waterfowl numbers can vary at the site, we concur with the aims of the condition as set out in the Appropriate Assessment dated 7 May 2021 for an adaptive management approach to safeguard overwintering birds and we continue to request the conditions set out in our letter of 26 April 2021 CAS-141780-J8J5 be included on any permission your Authority is minded to grant. We consider that damage to the features for which Llandegfedd Reservoir SSSI is of special interest can be avoided if the proposed mitigation measures, as set out in the documents to be conditioned, are implemented. Should you be minded to grant permission for the above planning application without attaching such conditions as described above to the permission, we ask that you notify us under the provisions contained in Section 28I of the Wildlife and Countryside Act 1981 (as amended).

#### Habitats Regulations Assessment (HRA)

We acknowledge receipt of an updated HRA dated 16/6/22 which we received on 20 June 2022. We will provide comments on the updated HRA in due course.

Our advice in relation to Bats remains as set out in our letter of 26 April 2021 reference CAS-141780-J8J5.

20/7/22 - We agree with the conclusion of the Test of Likely Significant Effect that there is no evidence that there shall be a significant effect on Interest Features of the River Usk Special Area of Conservation (SAC) either alone or in combination with other plans and/or projects.

We note the Appropriate Assessment (AA) for the Severn Estuary European Marine Site (SPA and Ramsar) has concluded that adverse effects can be avoided or overcome by implementation of the planning conditions referenced in Section 5.2.

Although we did not request the condition under section 5.2.2 commencing "No indoor events between 1st November and 28th February will be permitted until a wintering bird monitoring programme", we recommend that wording of bullet point (d) of this condition is amended to "Mechanisms to secure remedial actions and a commitment to suspend events if necessary (or similar).

We also advise that the conditions' 'reason' should include "to avoid impacts on the Severn Estuary European Marine Site/features", in order to highlight which measures/conditions are being used to secure "no adverse impacts".

In summary, we agree with the conclusions of the AA that the proposal is not likely to adversely affect the integrity of the Severn Estuary European Marine Site.

We note mitigation under 5.1.1 proposes planting adjacent to the north elevation of the visitor centre. Subject to the implementation of these measures, we do not consider the proposed development will result in a detriment to the maintenance of favourable conservation status of the bat species concerned. Therefore, should planning permission be granted, the following submitted document should be included within the scope of the condition, identifying the approved plans and documents on the decision notice:

Ecological Impact Assessment (EclA), prepared by Ricardo Ecology & Environment ED12587100, Issue Number 5, Date 11 June 2020 section 5.1.1 (Bats)

In this case, the proposed development is unlikely to give rise to the need for a European Protected Species Licence application from us. We advise recipients of planning consent who are unsure about the need for a licence to submit a licence application to us.

**26/04/21** - The Llandegfedd Reservoir SSSI is designated for overwintering wildfowl, particularly wigeon, pochard and mallard. The area around the reservoir includes grassland, important for feeding and roosting wildfowl, woodland and scrub.

The water sports centre is currently used solely in association with the water sports activities on the reservoir. This is controlled through condition 6 of permission DC/2012/00317. The permission also controls the opening times to 9:00am to 9:00pm.

This application seeks the additional use of the building for meetings, functions and events; as well as extending the opening hours from 6:00am to midnight. Our understanding is that if approved, the water sports centre will be permitted to open all year round. Currently, and in line with our agreement with the applicant, no water sports activities can take place on the reservoir between 1 November to 28 February (the closed season). This avoids potential impacts to the designated bird population from the water-based activities. On this basis, the building remains closed during these times (except for each Sunday during November when sailing in the southern part of the reservoir is permitted).

#### New Activities

In our response of 9 September 2020, reference CAS-120198-B9M6, we requested a complete list of new activities associated with the change of use of the water sports centre. We note that most recent Site Event Management Plan (uploaded on 16 March 2021 on your website) states "*It is difficult at this stage to provide an exhaustive list of the type of activity and event that could take place at the site but as per the management plans it is envisaged that these will primarily be led by the major water and land based activities currently using the site. Namely: Sailing activities/Paddle-boarding/Kayaking/Canoeing/Windsurfing/Open Water Swimming (successfully piloted in 2020)/Multi sport activities (e.g. Triathlon).*"

The Site Event Management Plan confirms that no events of this nature will take place over the Winter months (November to February in line with SSSI conditions). Land-based activities around the reservoir should also be restricted to outside the overwintering bird period (November – February inclusive) in order to protect the features of the SSSI.

**Therefore, we request that a suitably worded condition to ensure no land or water-based activities around and on the reservoir during the overwintering bird period (November - February inclusive) is secured to any permission granted to protect the special features of the SSSI.** (We have no objection to the continuance of the existing exception for each Sunday, during November, when sailing in the southern part of the reservoir is permitted)

#### Noise

We note the recommendations set out in the above reports to reduce impacts on the features of the SSSI. In particular, proposed mitigation measures set out in the Site Event Management Plan restricting outdoor events where music will be played to March – October only, marshalling of car parks for large events; regarding noise reduction methods (i.e. no external windows open to reduce noise leakage), management of visitors, restricted areas; site staff supervising of events and functions; ensuring areas remain free from disturbances and additional signage and barriers etc.

Therefore, we recommend that planning permission should only be granted if the following submitted documents are included within the scope of the condition, identifying the approved plans and documents on the decision notice:

- Environmental Noise Assessment Report, by Ricardo Energy and Environment, February issue 1, dated 8 February 2021
- Site Event Management Plan – Watersports Centre – undated
- Ecological Impact Assessment, by Ricardo Energy and Environment, Issue No 5, dated 12 March 2021.

Provided that the proposed mitigation measures set out in the above documents and all outdoor activities, in relation to the watersports centre are restricted as above, we consider that damage to the features for which Llandegfedd Reservoir SSSI is of special interest can be avoided.

Should you be minded to grant permission for the above planning application without attaching such conditions as described above to the permission, we ask that you notify us under the provisions contained in Section 28I of the Wildlife and Countryside Act 1981 (as amended).

**Glamorgan Gwent Archaeological Trust (GGAT)** - No objections. The proposed development would not have a significant impact on any buried archaeological resource and therefore we have no objection to the positive determination of this application.

**MCC Highways** - No objection. The highway authority does not consider that the proposed amendments to the hours of opening will be detrimental to highway safety or capacity on the immediate local highway network.

Llandegfedd Water Sports Centre is located in what can be considered a sustainable travel location and access to and from the reservoir is generally by motor vehicle. Extending the hours of opening is likely to increase vehicle traffic overall with more vehicles using the local highways for an extended period of time rather than increasing vehicle numbers at peak periods.

**MCC Biodiversity** – No objections subject to conditions.

#### **25/04/22 - Llandegfedd Reservoir Site of Special Scientific Interest (SSSI)**

The following comments follow previous comments provided an MCC Biodiversity and Ecology Officer on 14/12/2020 and 04/05/2021 with relation to the applications DM/2020/00762 & DM/2020/00763.



A Wintering Bird Survey report by Ricardo Energy & Environment (dated April 2022) has been submitted to inform the application. The report details the findings of wintering bird surveys and noise disturbance surveys undertaken between October 2021 and March 2022.

### Wintering Bird Surveys

A total of 10 wintering bird surveys were undertaken between October 2021 and March 2022. Although it had been previously requested that two wintering bird surveys per month were undertaken, during both October and December 2022 only a single survey was undertaken. No explanation is provided in Section 1.5 – Limitations for the missing surveys during these months, or for why there was no attempt to account for these surveys elsewhere.

The limitations included in Section 1.5. of the submitted report detail occasions of disturbance encountered during surveys as a result of watersport activities and fishermen. Whilst it is regrettable that water-based activities were not halted for the duration of the surveys, we acknowledge that they are representative of the baseline conditions at the site as a result of the current management. Further limitations with regards to the weather conditions have also been acknowledged. Given the length of the surveys, more detailed weather data (hourly recordings) should have been provided in the appendices in order to assess whether such poor weather intervals were detrimental to the overall results of the survey.

The survey methodology is based on a modified BTO Wetland Bird Survey (WeBS) core count methodology. All surveys starting an hour prior to dawn (with one exception on 08/02/2022 which was timed to coincide with dusk) and had a survey duration of four hours. Such survey timings are deemed appropriate in order to pick up any pre-dawn roost movements that may have occurred between Llandegfedd and other sites such as the Severn Estuary EMS, although a greater number of dusk surveys would have been preferred to account for later behavioural activity.

It is noted that the location of the hide for surveying the northern section of the reservoir changed from the Bert Hamar Hide in November 2021 to Pettingale Hide in January 2022, which may have resulted in some discrepancies in survey data due to the differing viewsheds (no viewshed analysis has been provided as part of the report). Following discussion with MCC in December 2021, it was agreed that solely the Pettingale Hide would be used for surveys in order to ensure that the results provided a higher degree of consistency. We agree that the two chosen location represent the best positions to achieve maximum visibility with the minimum number of vantage points. We are comfortable that the two vantage points are sufficient for accurately recording behaviour and activity levels on the main body of Llandegfedd Reservoir.

The results of the desk study detail peak count data collected from previous WeBS surveys. Compared against the data collected from the 2021/22 surveys, it would appear to be a relatively low year for some of the species associated with the Llandegfedd SSSI and Severn Estuary EMS, including wigeon (7) and teal (21). On the other hand, numbers of other species appear to be comparatively similar to peak counts of previous winter periods including mallard (202), tufted duck (41), shelduck (2), goosander (2) and pintail (1).

Historical data would appear to confirm that the 2021/22 season was a low year for overwintering wigeon and teal. The Birds of Gwent (2008) describes Llandegfedd Reservoir as 'the major site for [wigeon] in the county', with exceptionally high counts occurring during periods of severe winter weather. However, historical data also notes that numbers of wigeon have declined since 1986/87 with peak counts now regularly well below 700. Historical average peak counts of teal tended to fluctuate around 300 birds between 1974 and 2004.

The site was previously the most important site in Gwent for overwintering pochard, but historical data show that peak counts have been in decline since the early 1970s, and now are only recorded on a sporadic basis. This is consistent with the survey findings.

Whilst the results appear mostly typical of a winter season on Llandegfedd reservoir over the previous five years, low numbers of wigeon and teal mean that there remains a degree of

uncertainty regarding the impacts of the proposals on species of both the Llandegfedd SSSI and Severn Estuary EMS.

Noise Disturbance Surveys As part of the scheme of wintering bird surveys, three noise disturbance surveys were undertaken in order to assess the impact of differing noise levels on birds using Llandegfedd reservoir SSSI. Section 2.2.2. of the submitted report details a bespoke methodology which involves recording responses of birds within the southern area of the reservoir to noise levels of 60 decibels (db), 80db and 100db played from the watersports centre. The methodology has been informed by the previous noise assessment by Ricardo Energy and Environment.

The surveys found an increased in behavioural responses during periods where music was played at 100db, with flocks of mallards (an interest feature of Llandegfedd reservoir SSSI) moving away from the water sports centre. Some behavioural responses were noted in mallards at 80db located within a 90m buffer of the watersports centre. Ricardo concludes that based on the peak counts of waterfowl and number of birds observed making behavioural changes in response to noise stimuli '...it is not anticipated that elevated noise levels (up to 100dB) and the proposed modifications to planning conditions will result in significant impacts on waterfowl abundance at Llandegfedd reservoir.'

We acknowledge that the sample level for the surveys is low, with noise assessments undertaken on only three dates. In order to improve the robustness of the survey data, a survey schedule encompassing the entire winter period would have been preferred. The failure of the submitted Wintering Bird report to draw upon any previous noise disturbance research to back up the assessment (and ultimately the conclusions) of the report undermines their reliability. For example, different species of bird have different tolerance thresholds to noise disturbance but there appears to have been no attempt to differentiate how the response of qualifying species may differ in response to noise disturbance. In order to accurately draw conclusions from the noise disturbance surveys, the report should have included a literature review drawing together existing ornithological research of noise disturbance on waterfowl species.

Nevertheless, despite the low sample level, the submitted noise assessment provides evidence that birds within 200m of the noise source are susceptible to disturbance at decibel levels higher than 80db, and that qualifying species of the SSSI (mallard) are known to use the area close to the watersports and visitor centres, albeit in low numbers.

### Conclusion

It is acknowledged that elements of the survey methodology and reporting mean that there remain elements of doubt with regards to robustness of the submitted survey data. Nevertheless, despite such inadequacies, with the imposition of strict management limitations that includes no outdoor activities throughout the main overwintering period (November – February), the application is not deemed likely to have an adverse impact on features of the Llandegfedd Reservoir SSSI.

### Severn Estuary European Marine Site (SPA, SAC, Ramsar)

The Severn Estuary European Marine Site is located approximately 17km from the site. Due to potential impacts on features of the protected sites, specifically waterfowl assemblages, the application has been subjected to an Appropriate Assessment to test any likely significant effects on the features in question. Any application should only be approved subject to an AA concluding that features of the Severn Estuary SPA will not be adversely affected by the development.

### River Usk (SAC)

The River Usk SAC is 7.5km from the site. The likelihood of a significant effect on features of the SAC was assessed and screened out via the HRA process.

### Biodiversity Net Benefit

Planning Policy Wales (PPW) 11 sets out that “planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity” (para 6.4.5 refers). This policy and subsequent policies in Chapter 6 of PPW 11 respond to the Section 6 Duty of the Environment (Wales) Act 2016.

The currently submitted enhancement plan is insufficient for the purposes of this application. There is a lack of detail with regards to the proposed ‘new grass cutting programme’ with neither the management prescriptions, aims or location provided. Whilst promoting the growth of meadows at the site is tentatively welcomed, relying on a grass cutting programme to deter walkers seems only likely to be of use in the peak summer months. The installation of physical barriers to prevent access to the waterbody and meadow habitats would seem a far more effective solution, and potentially work to reduce disturbance of waterfowl during the overwintering period for which the SSSI is designated.

Other habitat measures to offer feeding/sheltering habitat for overwintering wildfowl would be highly encouraged.

Canada geese are an invasive species that has become established in much of the UK. Whilst we do not oppose measures to encourage nesting behaviour at the site, we do not view this as a biodiversity enhancement feature.

Whilst the work to remove areas of overgrown willow as part of the applicants responsibility to maintain the SSSI is welcomed, this is currently ongoing work and part of the landowners responsibility for the managing the SSSI. Therefore, we do not consider this as a biodiversity enhancement feature.

No details including numbers, specification or location of the proposed bird and bat boxes have been provided. Bird boxes should be targeted at specific species likely to benefit from increased nesting provision, particularly species known to be declining locally or nationally, and listed on the Birds of Conservation Concern Red/Amber lists. It is understood that existing nesting provision at the northern end of the reservoir have fallen into disrepair, and replacing these nesting locations would be welcomed. Such proposals should include details of ongoing monitoring and maintenance.

Consequently, to meet the requirements of PPW, we require an Ecological Enhancement Plan to be submitted which includes a map detailing the location of the proposed enhancement measures. Furthermore, details including management prescriptions, aims and targeted species should be included

**Previous comments dated 04/05/21** - Previous objections were made against the DM/2020/00035 and 00036 section 73 applications (applications now withdrawn). Comment was made (objection) in December 2020 relating to the planning applications DM/2020/00762 and 00763 following the submission of further information. Additional information was provided in March 2021 and has been reviewed.

#### Potential impacts of the proposals on ecology

The proposals are intended to extend the water and land based activities which will by their nature include more people, a wider range of activities and longer duration of activities throughout the day and the year. Land only activities being permitted during the winter months 1st Nov – 28th Feb. The ‘closed season’ for the SSSI is Oct 1st - February 28th .

The impacts of the proposals are considered to remain the same as previously identified for the s73 application and are predicted to arise from disturbance (noise, visual and lighting) that could impact on the SSSI (overwintering birds), other birds, bats, badgers and otter.

Increased noise from vehicles, people and PA systems including music are a particular concern for the key species noted above. The movement of people and vehicles is also a concern with the

latter being an issue for road mortality of species such as otter but also badger. Movement of people into restricted areas during the sensitive season is a concern as is the proposal to manage this via the DCWW management plan.

### Car parking

The comment log submitted with the application notes that there will not be an extension/change to car parking arrangements. I recommend that we use a planning condition to control this to prevent any degradation of surrounding habitats and increased vehicle movements.

### Conservation of Habitats and Species Regulations 2017 (as amended) River Usk (SAC)

The Reservoir sits on the Sor Brook which is a tributary of the River Usk (7.5km). The HRA screening document provided with the application was previously updated to remove erroneous information referencing saltmarsh etc. however, this seems to have been re- incorporated into the latest version. Notwithstanding this, Monmouthshire County Council has enough information to undertake the Habitats Regulations Assessment. This assessment is required by Regulation 63 of Conservation of Habitats and Species Regulations 2017, before the Council as the 'Competent Authority' under the Regulations can give permission for the project. A Test of Likely Significant Effect (TOLSE) has been undertaken in relation to the River Usk and no significant effect on the Interest Features of the River Usk has been identified.

### Severn Estuary European Marine site (SPA, SAC, Ramsar)

Regulation 33 advice for the European Marine Site (EMS) states that some species will use areas of land and coastal waters outside the boundaries of the EMS. The MCC Review of Consents study (JBA, 2013) acknowledges the Zone of Influence to include this location due to use by Bewick's Swan. All species that are listed as reasons for designation of the SPA have been recorded at the reservoir and 8 out of 10 of the water bird assemblage have also been recorded. The submitted screening document has now been updated to include the Severn Estuary (the EclA has not) however, the conclusion is not considered to be precautionary enough in the absence of targeted survey information. Monmouthshire CC has undertaken a Habitats Regulations Assessment TOLSE and concluded that it is 'uncertain' whether there could be a Significant Effect on Interest Features of the EMS. A full Appropriate Assessment (AA) considering winter bird Interest Features has therefore been undertaken. Additional Measures considered necessary to protect the Integrity of the Severn Estuary EMS include planning conditions recommended by NRW in relation to implementation of :

- Noise Impact Assessment on the SSSI by Ricardo Energy and Environment, Revision 1, dated 12 February 2021
- DCWW – Llandegfedd Visitor Centre – Site Event Management Plan [submitted 16 March 2021]
- or
- DCWW – Llandegfedd Water Sports Centre – Site Event Management Plan [submitted 16 March 2021]
- Ecological Impact Assessment, by Ricardo Energy and Environment, Issue No 5, dated 12 March 2021.

A detailed condition is also required in relation to the monitoring that is referenced in the above documents.

It is concluded that the project will not adversely affect the Integrity of the Severn Estuary EMS alone or in combination with any other projects subject to the agreement of the detail of the planning conditions.

### Llandegfedd Reservoir SSSI - SSSIs are of national importance.

The Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000, places a duty on all public bodies, including planning authorities, to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of the features by reason of which a SSSI is of special interest. This is reflected in Planning Policy

Wales... There is a presumption against development likely to damage a SSSI and this presumption should be appropriately reflected in development plans and development management decision.

The site is designated for the overwintering wildfowl that use the water and banks of the reservoir for roosting and feeding. The potentially damaging operations identified in the site citation for the SSSI include recreational activities.

As previously stated, we typically refer to NRW advice on proposals in relation to the SSSI, however during the consideration of this application a number of issues need to be addressed before we, as the LPA, can be satisfied that there will not be an impact that will prevent us from complying with policy and legislation. Therefore, I have made further comment on matters relating to the SSSI in the detailed objection prepared in May and December 2020.

The scheme proposal I had previously commented that it was unclear from the submission which activities would be undertaken during the closed season, their frequency and the cumulative nature of the activities. The updated Ecological Impact Assessment (EclA) clarifies in section 1.1: In line with the current agreement, no water sport activities are to take place on the reservoir, between 1st November and 28th February (except for Sunday during November when sailing in the southern part of the reservoir is permitted). This EclA is not to amend the current agreement and no outdoor events will occur between 1st November and 28th February.

However, the DCWW management plan for the water sports centre only refers to seasonal control of outdoor events with 'external music', possibly suggesting that other types of outdoor events could proceed during this time. Seeking clarification via email dated 15/04/2021, DCWW (via Asbri) state that: If outdoor events includes things like Christmas Fayre or bird of prey displays then yes we will be conducting events in the winter but without PA or music. Therefore, there is some discrepancy between the ecological assessment, which makes the assumption that there will be no outdoor winter events, and the management plan with little clarity provided in personal communication.

NRW have advised controlling all outdoor events associated with the water sports centre during the winter months via a planning condition. I support this approach to preclude all outdoor activities at this sensitive time.

### Survey and Assessment

It is acknowledged that there are a lot of bird records for the site however, meaningful survey has not been undertaken to inform the assessment. As previously stated, it is insufficient to make an assumption about the use of the reservoir by the key species based on the areas where water-based activities are restricted.

There is evidence from noise modelling that disturbance can occur within the SSSI boundary; in the absence of meaningful bird survey work, the assessment on potential impacts and resulting mitigation proposals should be extremely precautionary with the control of outdoor activities in the winter and monitoring of the impacts of indoor events during the winter secured.

We still do not have any targeted survey relating to the use of the area near to the buildings that could be disturbed by events that previously would not have been permitted. Data and evidence that has been used to inform the application still falls below the minimum that we would expect for a site (for reasons outlined in May and December 2020), particularly a site of national importance i.e. a SSSI. However, the latest submission details a mechanism to allow a form of monitoring in relation to the scheme and the SSSI status. The mitigation (section 5) of the EclA states:

*No outdoor events will occur within the closed season (1st November and 28th February) when the SSSI wintering bird population is present. A five-year wintering bird monitoring programme is recommended to monitor the location and behaviour of wintering birds during indoor events between 1st November and 28th February. As part of the planning application a site event management plan has been produced which entails decibel level restrictions along with event*

*management practises. A regular review of the wintering bird monitoring should take place alongside the event management plan.*

A planning condition would be required to control this. No events between 1st November and 28th February should be permitted to take place before this monitoring plan has been agreed in writing by the LPA (in consultation with NRW). It is critical that the results of monitoring are linked to curtailment of operations at the site e.g. reducing the dB trigger for noise limiting devices, reducing the frequency / type of events.

### DCWW Event Management Plans

As previously noted, in order to ensure that we are complying with policy and legislation, Monmouthshire County Council needs to carefully consider whether the management plans for the Visitor Centre and Water Sports Centre are enforceable documents that we will be able to monitor and respond to breaches of, to prevent impacts on the SSSI. I still have concerns about the enforceability of the management plan as submitted, including management of the risks to key species. Therefore, specific planning condition relating to outdoor events during the winter and monitoring of indoor events will be required.

Clarification of the control on outdoor events (i.e. there will be none at the water sports centre), the inclusion of noise limiting devices and a commitment to not allow fireworks are welcomed. However, further controls relating to outdoor events at the water sports centre and the monitoring of the effects of indoor events will need to be secured by standalone planning conditions.

In-combination and Cumulative impacts of development The cumulative impact of events in both the water sports centre and the visitor centre has been referenced in the EclA. It is considered that this should also be considered by the monitoring of indoor events.

### Legally Protected Species

Badger - Survey has now been provided. Impacts on this species have been screened out on the basis of their ecological importance in legislation. The management plans incorporate triggers to consider mitigation for badger should road fatalities be recorded.

Otter – Reference is made to the likely use of the north of the reservoir by this protected species following otter survey around the water sports and visitor centres. In the absence of an update following my earlier comments (dated December 2020), I have reviewed otter habitat in the catchment and in the vicinity of the application sites. There are opportunities for otter to maintain north-south movement in the wider catchment, however, there is some potential for increased otter road mortality associated with an increase in vehicle movements. It is noted that the site event management plans refer to monitoring of road mortality in relation to events. This needs to be linked to action if road mortality becomes an issue. A separate planning condition is recommended for this.

Bat Roost - NRW have not objected to the potential loss of the night roost in the visitor centre as the result of further lighting. It is noted that a new hedgerow has been planted, which is welcomed. An alternative lesser horseshoe location should be offered to ensure there is no net loss of biodiversity, although this is unlikely to be a licensing requirement. The submitted 'comment log' states that this was to be addressed and yet it hasn't been updated.

The EclA considers the potential impact of three hours of additional artificial lighting specifically for bats and otter. However, the DCWW management plans indicate that the proposals include an extension of opening hours from 6am until midnight i.e. an extra 6 hours. The comment log refers to an update of the EclA to reflect the extent of the lighting proposals however, this doesn't appear to be the case. Notwithstanding this, the assessment concludes for bats that there are additional areas of foraging / commuting habitat. Due to the nature of the site, and alternative foraging commuting areas in this high value landscape, I do not disagree with this conclusion.

### Priority Habitats & Species - Section 7 Environment Wales Act 2016 Species

A number of the key species identified at the site are listed on Section 7 and are therefore pertinent to the Environment (Wales) Act.

### Environment Wales Act 2016 - Net benefit for biodiversity

Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity. The information provided with the submission does not give confidence that an approval of this proposal would not cause significant impacts on populations of species. As discussed in detail above, planning conditions are recommended to control the proposals particularly limiting winter activities to indoor events only.

Net benefit for biodiversity has only been referenced in relation to an unspecified number of bat boxes to go in unspecified location(s). This is not acceptable for the scale of proposal and potential for net benefit that this scheme could offer. A planning condition will therefore be needed to secure enhancements.

### Monmouthshire Local Development Plan Policy NE1

Policy NE1 relates only to local designations whilst referring to national policy (i.e. PPW 11 and TAN5) in relation to the tiered approach to statutory designated sites including SSSIs. The proposals will only meet policy NE1 if it can be demonstrated that the benefit of the development outweighs the harm to the local nature conservation value, that development cannot reasonably be located elsewhere and that adequate mitigation, compensation and enhancement are in place. There are no local designations relevant to the scheme and no Section 7 habitats are predicted to be detrimentally affected. However, Section 7 species could be detrimentally affected including species of bird that may be disturbed by the increased activity at the site. Critical times for such species, including during the winter, must therefore be controlled by use of a planning condition. Enhancements are expected to be incorporated, again via planning condition.

### ***13/10/22 - Further comments on committee report conclusions:***

Having read through the report and there is agreement with the conclusions relating to biodiversity which can effectively be summarised as the following:

- There are a number of acknowledged inadequacies with the methodology for both the wintering bird surveys and noise disturbance surveys
- Nevertheless, with the inclusion of conditions ensuring no outdoor activities are permitted throughout the main overwintering period (1<sup>st</sup> Nov – 28<sup>th</sup> Feb) and the provision of a robust monitoring programme, negative impacts on features of the SSSI or Severn Estuary EMS can be appropriately mitigated.
- A risk to increased badger and otter mortality via increased vehicular traffic has been identified, and a monitoring scheme will be secured via condition.
- The application currently does not comply with PPW11 as it does not demonstrate biodiversity net benefit. The current enhancement plan is insufficient, for various reasons laid out in the report, and no updates to the plan have been received. However, a pre-commencement condition ensuring an ecological enhancement plan will need to be submitted and agreed by the LPA should allow us to secure this.

In my opinion, a condition restricting concurrent events to no more than two would be welcomed on the basis of controlling potential impacts caused by excess vehicular traffic, as concerns have previously been identified as to the impacts on badgers and otters, with potential for increased mortality.

**MCC Environmental Health** - We have reviewed the above application and the additional information supplied. We can see that the applicant has now submitted two separate Noise Impact Assessments for both the water sports centre and the visitors' centre. They have also

included separate site management plans for both sites. These amended documents have addressed all previous comments.

We also note that the applicant has added a fourth receptor as discussed and has increased the monitoring time later into the evening. We also note that reference to construction noise has been removed from the documents as there is no longer any construction planned at the site.

Based on the new information supplied we have no objections to this application. Although as agreed by the applicant and detailed in both their noise impact assessments and site management plans, I would suggest that if planning permission is granted, the following conditions be included;

1. Outdoor events are limited to 12 per year and must finish, including the use of amplified recorded music and PA systems no later than 5pm.
2. All outdoor events be subject to a noise management plan submitted by the applicant to be approved by the Local Planning Authority.
3. All indoor events at both the visitors centre and the water sports centre, including any amplified recorded/live music should finish no later than 11pm.

Please also note that the applicant will need to apply for a Premises License if planning permission is approved.

**SEWBRc Search Results** - Various protected species identified within the vicinity of the site - bats, otters, badgers.

## 5.2 Neighbour Notification

Twenty-two representations received, objecting on the following grounds:

Impacts on biodiversity, specifically concerns on impact on SSSI status as a result of increased activity, lighting and noise;  
Future management of site from environmental perspective;  
Increase traffic and insufficient parking provision;  
Noise pollution and general increased public nuisance (opening hours etc.) from an environmental health perspective;  
Displacement of sailing club and type/duration of events proposed - negative impact for water sports users;  
Public safety concerns - danger of licensed venue next to open water;  
Security concerns (i.e. managing events on site);  
Negative impact on rural economy (i.e. other venues in close proximity); and  
Negative impact on wellbeing of local residents.  
Lack of public transport and increase in traffic  
Any limits on hours of operation and noise-levels are in practice unenforceable.

A petition has also been received signed by 180 individuals. Signatures were collected at approx. 2-3 hour sessions over 8 days in summer 2020.

*Response to re-consultation following the submission of over-wintering bird surveys (NB. All previous objections still relevant):*

- Wholly incomplete, inadequate and an incompetent study of such a recognised and registered site of special scientific interest (in this context) of over wintering birds.
- The MCC Planning Officers et al would do very well to consider these GWT and GOS responses extremely seriously, as they constitute overwhelming reasons why this DCWW Wintering Bird Survey is simply not fit for purpose.
- Welsh Water should carry out at least an additional year of survey work.
- At the moment the general public along with their dogs are frequently seen in areas where rare ground-nesting birds nest, like little ringed plovers and their nests are often destroyed.
- A couple of years ago Ospreys were seen at the reservoir. A platform encouraging them to nest and stay was erected. This to my knowledge has been removed.



- We believe from the knowledgeable people of the Gwent Ornithological Society informing us that this survey is incomplete, not representative of the large numbers of birds using the Reservoir and evidence shows it is flawed and ultimately has no credibility.
- We have not seen any mention of the large numbers of gulls using the Reservoir overnight and on other occasions. These numbers often exceed over 6000 birds. These Gulls are often made up of rare species which must be encouraged and protected.
- The Heronry which has been a successful breeding place for many years is also disturbed by one of the paths used by the public.
- This surveys took place over a short space of time; sampling was conducted at selected locations only and no survey was carried out at evening when gulls arrive in huge numbers.
- The decline in birds is currently exacerbated by the extremely low levels of water as Dwr Cymru must carry out essential work. The SSSI citation by Countryside Council Wales states clearly: Water level is significant because many species require flooded land at the edge of the reservoir for feeding.
- In February 2020 the old fishing cages/platforms that had for many years provided valuable roosting and perching for wildlife were dismantled and removed.
- The bank to the north of the Water sports centre had for many years been a favoured grazing area for Wigeon. This area, minus a collapsed bank where orchids once grew, is now mown to leaving nothing to graze.
- Hostile behaviour by people and dogs and continual significant light spillage (in breach of planning conditions) denies wildlife peaceful conditions. These examples, culminating in the recent "decimation of the west meadows" (Iolo Williams) demonstrates the systematic removal of favourable conditions whereby wildlife may thrive at Llandegfedd SSSI.
- During Lockdowns wildlife increased in both species and numbers, evidencing their ability to thrive when no adverse human interference.
- Dwr Cymru continue with these two separate applications, which in reality is one, that would dramatically change this Site of Special Scientific Interest for ever as evidenced by the continued inclusion of the various Site / Event Management Plans which demonstrate the full extent of their open-ended ambitions for Llandegfedd .
- To avoid the 'dystopian future' feared by one of its members, the Senedd declared a Nature Emergency on June 30 2021. Monmouthshire Planning has a duty towards our future generations and can take decisions to ensure it is not Dystopian.
- The Planning Annual Performance (2020 section 3.3.7) confirms your commitment to:
- Protect and enhance the resilience of our natural environment whilst mitigating and adapting the impact of climate change "As an LPA demonstrating such commitment, the LPA are in a position to shape our future. By refusing these applications you allow our younger generations to become stakeholders in their own future .
- If the applications are approved, these buildings would no longer be a visitor centre or a water sports centre; they would be available for a wider range of leisure and business uses.
- There has been a considerable increase in traffic since the comments made in August of 2020.
- Noise surveys suggest that radio being played on the balcony of the Water Sports Centre is comparable to the noise that would result from live, amplified music and PA system at a social gathering. Although dismissed in its conclusion, the survey shows disturbance to wildlife; may we add the radio on early morning occasions in December, also disturbed their human neighbours.

One representation in support of the application:

- Upon reading there seems to be a lot of mention of 'we'. I can assure you that not all Coed-y-Paen residents are against the application. I, along with others, are in favour of the application.

Other:

- The setting up of an Ecological Liaison Group has apparently been established by Welsh Water Dwr Cymru. We would like to know when this group has met. What was raised and discussed at these meetings? Who sits on this group and what are the outcomes of these

meetings? Importantly, as a public body, are the agreed minutes of these meetings available to the public?

### 5.3 Other Representations

**Gwent Wildlife Trust (GWT)** - GWT objects to these applications on the following grounds:

- Lack of Environmental Impact Assessment (EIA).
- Survey deficiencies.
- Noise- and light-related disturbance to wildlife arising from the proposals.
- Human-related disturbance to wildlife arising from the proposals.
- Permitted Development Rights.
- Lack of detail over proposed planning conditions, including the establishment of a steering group or similar to oversee their implementation.
- The development plan context.
- Welsh planning policy context.
- Legislative context

Conclusion: We urge the local planning authority to refuse the applications, at a minimum, until such time as a fit for purpose, two year bird survey to approved methodologies has been carried out by the developer, and screen in the applications for the need for a statutory EIA. Notwithstanding the above, we further urge the developer to comply with its statutory duties, and withdraw the applications.

#### ***Further comments from GWT following the submission of over wintering bird surveys:***

Gwent Wildlife Trust objects to the content of the bird survey and noise assessment document, for the following reasons :-

- Deficient bird survey effort, based on inadequate survey radii employed by the developer.
- Deficient noise assessment, due to insufficient noise level simulations, insufficient noise emission point sources and a lack of a consideration of cumulative impacts.
- Incorrect conclusions drawn from the above.
- Certain key admissions made by the developer in his documentation, which critically undermines his case.

#### Survey Radii Employed by the Developer

The developer employed 90m, 200m and 300m radii from various points. However, as set out in our previous representation (appended), we consider these radii to be too small. This insufficiency has the effect of underestimating the likely level of noise - related disturbance behaviour, and thereby the likely significant adverse impacts on the SSSI bird population and other bird populations on the reservoir of acknowledged nature conservation importance. We reach this conclusion based on the following matters:-

The radii underestimate the noise levels which would be likely to manifest themselves. Noise levels at 100 decibels are emitted from such activities as a classical music concert for example, whilst the developer has referred to wedding and birthday parties with amplified modern music, as well as open air music on the banks of the reservoir, citing a previous windsurfers' festival with amplified music as an example of the type of activity intended, which local residents affirm could be heard over a kilometre away. An examination of published noise figures shows that such events would be likely to emit noise at levels of approximately 110 decibels, with 110 decibels being described by the charity Action on Hearing Loss as "a live gig or concert". It is important to note that these levels are very much higher than those emitted by the developer in his simulation, decibels being measured on a log scale, so for example 120 decibels is approximately four times as loud as 110 decibels.

The simulation experiment took place from one location only (the Water Sports Centre), which is the building the furthest set back from the banks of the reservoir. It is therefore deficient because it

did not measure noise from the location of the 12 outdoor events, nor from the Visitor Centre. 2.1.4 Only three days' noise surveys took place over a six-month period

The simulation experiment consisted of incrementally increasing the noise levels from 60, then 80, then 100 decibels. Even leaving aside the fact that 100 decibels is too low, this is not an accurate simulation of the types of events for which the developer seeks permission, because such events would be more likely to consist of sudden outbursts of very loud music, rather than a slow increase in volume. The former is likely to have a much larger disturbance behaviour effect on birds than the latter.

The noise was emitted for only three periods of 10 minutes each (in the mornings only), whereas a proper simulation of the duration and intensity of noise would have consisted of short bursts of very loud music spread out over an entire afternoon and evening.

Only one noise source was used, whereas the developer's proposed arrangements could result in three simultaneous and cumulative sources of noise (the Water Sports Centre, the Visitor Centre and the outdoor events).

The damaging impact of noise emanating from the outdoor events would be likely to be very much more severe than implied by the developer, because the 12 events could, under the proposed arrangements, take place on 12 successive days.

The noise experiment did not and could not simulate the additional noise levels and durations likely to be emanating from the potentially hundreds of members of public attending the outdoor events, and it is important to note that the developer has no way of stopping the general public from accessing the site for the outdoor events.

Conclusion to this Section: In spite of all the above underestimates, which are cumulative and synergistic, the document contains the remarkable key admission that 11% of the birds surveyed would be disturbed at 100 decibels.

### Cumulative Adverse Impacts

Additionally to the above, the developer fails to take into account likely cumulative and synergistic adverse impacts on waterbirds from the noise pollution with light pollution from the development sites, nor with human- or dog-related disturbance behaviour.

### Bird Survey Methods Employed by the Developer

Notwithstanding the above, the survey methods employed by the developer are deficient, and have the effect of underestimating the populations of birds likely to be significantly adversely affected by noise emanating from the three emitter locations. We therefore object to the survey methods on the following grounds :-

The developer attempts to construct an argument to the effect that WeBs data relating to the site can be considered as part of a long-term trend data set. However, this is not the case, because the developer's survey did not cover all, or even most of the most important bird populations of the reservoir, including for example Green Pool, "The Island", Sor Bay and Eastern Bank. The developer thus cannot reach an assessment of the value of the reservoir due to the lack of survey effort.

We therefore consider that the developer should carry out at least an additional year of survey work. The local planning authority is reminded that three years' bird survey work was carried out in respect of the proposal for winter sailing.

The developer himself admits that bird numbers can fluctuate very markedly between years, and the data provided by him shows that for wigeon for example, numbers fluctuated from 420 in 2018-19 to 2 in 2019-20. The developer has tried to argue that, with the advent of climate change, milder winters are inevitable, and that the long-term value of the reservoir for birds has therefore

decreased and will inevitably continue to do so. However, as our understanding of climate change has deepened, it is now universally-acknowledged that climate change is not a mere gradual warming, but will constitute a fundamental disruption of climatic conditions. It is notable that the very severe winter of 2018 (known as “The Beast from the East”) resulted in very elevated numbers of waterbirds using the reservoir. Britain is approximately on the same latitude as Labrador in Canada, and changes resulting from climate change could plunge Britain into the types of weather phenomena experienced there.

Furthermore, there is considerable evidence of a very marked undercounting of bird populations in the developer’s survey. For example, daily counts by local birdwatchers identify evening gull populations on the reservoir in the thousands, sometimes up to 6000, but the developer’s morning only surveys identified a peak count of only 117 black-headed gulls. Additionally, other species fly onto the reservoir to roost in the evening from surrounding areas, so were also very markedly undercounted in the developer’s survey. There is some evidence that the fact that birds are compelled to fly from other away from the reservoir site to it may well be due to the damaging activities of the developer on the wider environs of the reservoir, such as on the banks and other associated land.

The survey frequency and efficiency was even further impaired by the limitations admitted to by the developer himself in the document. It is instructive to note that further doubt is cast on the developer’s survey by the fact that the baseline noise bird survey carried out as a by-product of the noise assessment appears, in some instances, to have identified higher numbers of some species than the actual bird survey, which was supposed to assess peak bird numbers.

The developer has not stated, nor can he state, what percentage of the bird populations of the reservoir would be likely to be affected by the development proposal, because he has not surveyed the whole reservoir populations (see above). 4.1.7 Further doubt is cast upon the veracity of the bird survey effort by such errors as misnaming the Latin name of wigeon, which is *Mareca penelope*, not *Anas penelope*.

#### The Developer’s Key Admissions, which Undermine his Case

Even setting aside the manifest deficiencies and underestimates associated with both the noise simulation experiment and the bird survey work, the developer himself makes two remarkable key admissions, which critically undermine his case : -

- Bird populations already suffer disturbance displacement from anthropogenic sources, with the developer using the incorrect term “adaptation” to describe this disturbance displacement phenomenon.
- 11% of the bird population surveyed within the (insufficient) survey radii and subject to the (too low) levels of noise simulations suffer disturbance displacement.

#### ***Further comments from GWT 27/9/22 – in connection with the outdoor music element of the application.***

We gather from a number of sources that the developer has dropped the outdoor music element of the applications. This is welcomed by GWT. However, we wish to make the following points in relation to this matter:

1. We can find no formal confirmation of this intention on the part of the developer on the planning portal. The portal is the formal record of the evolution of these cases, enabling those who have a legitimate interest in the applications to apprise themselves of developments in relation to them, and therefore all material changes in circumstances should be registered on it.
2. This informal stated intention does not appear to include events organised by third parties, such as contractors, sub-contractors or others hiring the development site for example.
3. The informal intention does not appear to include the marquee, for which the developer claims permitted development rights. Music emanating from the marquee would be, to all intents and purposes, outdoor music.

We therefore maintain our objection to this element of the applications, until such time as the developer:-

1. Issues a legally binding commitment in the form of a letter to the local planning authority, to be uploaded onto the portal, confirming that they have dropped the outdoor music element, and
2. Formerly clarifies via the above letter that the dropping of the outdoor element includes all present and future third parties and all successors in title.
3. The local planning authority issues an Article 4 Direction in respect of the use of the marquee.

### **Gwent Ornithological Society - Object.**

Conclusion: We believe that the change of use to an all-purpose function venue with internal and external music would be incompatible with the SSSI. The resultant increase in noise and activity would obviously cause a high level of disturbance. The site is designated due to its importance for over-wintering wildfowl generally, but particularly for Wigeon, Pochard and Mallard, with Goosander, Teal and Goldeneye also listed as being 'notable'. The surrounding area, particularly the grassland is noted as being important for feeding and roosting wildfowl. All of these species require quiet for feeding and roosting and the changes applied for will negate this.

We object to the application because we believe it would result in significant disturbance of wildfowl and put the SSSI status of the site at risk. We ask Monmouthshire County Council to please reject this application by applying paragraph 6.4.17 of Planning Policy Wales (Dec 2018).

### ***Further comments received following the submission of over wintering bird surveys:***

Our understanding is that DCWW does not have a management plan for the SSSI and so the site has been allowed to deteriorate as a site for nature. For a public owned company, the lack of even having a plan, let alone keeping to one, is astonishing.

### The Winter Survey

The survey fails to give a representative count of birds at Llandegfedd Reservoir, with only the area adjacent to the visitor centre being surveyed adequately with 6 surveys. The Pettingale hide was used for 3 surveys but for one there was poor visibility and for the other two moderate visibility (fog and drizzle). Only one survey was undertaken from the Burt Hamar hide. This is inadequate and falls well short of what is required to produce meaningful results.

Large swathes of the reservoir were not surveyed at all, including Green Pool (which can contain more than 50% of the wintering Teal and Wigeon at peak season), the waters around "The Island", Sor Bay and the Eastern Bank (not visible from the visitor centre). These areas would almost certainly hold the majority of the waterfowl. Therefore, because only a fraction of the area was covered, the results represent an unquantifiable but probably small fraction of the total number of birds using the reservoir during the morning. It is therefore not possible for the developer to arrive at a figure of the percentage of the population which would be affected by the development proposal.

Another factor is that bird numbers at the reservoir tend to be higher late in the day and at night (whereas the surveys were conducted in the morning)- This is due to:

1. Species such as Goosander flying in at dusk from river sites to find a safe roost.
2. Large numbers of Gulls flying in from a variety of sites during late afternoon to roost: numbers can be in excess of 6,000
3. Wildfowl who traditionally would have used Llandegfedd during the day for grazing etc., but have been displaced to alternative foraging areas by poor management of the site flying in to find a safe roost at dusk.

So all told the survey is a gross underestimate of the number of birds using the reservoir. The number of birds therefore that could be affected by the proposals is much higher than is suggested in the report. Also, because of single year variations in bird numbers the survey would need to be carried out over three consecutive years to give meaningful results. The survey would need to cover the whole reservoir on 6 monthly occasions, with both morning and evening visits included.

In conclusion, the Winter survey is flawed to the point of being worthless as a gauge of birds present on the Reservoir, and so no conclusion should be drawn from it.

## Noise

Note a few flaws in the part of the survey that investigates noise disturbance:

The distance of the microphone that's measuring the loudness of the test speaker is not mentioned. A speaker producing 100db, but at what measurable distance? 10 cm? 10 meters? 100 meters? Results of this study would be drastically different at each measurement.

Also, the survey does not reflect reality in that a concert would have at least 100db (probably more in reality- 120dB seems to be the figure for concerts from internet information sites) for several hours rather than ten minutes.

Additionally, there would be further noise from several hundred revelling spectators. The P.A. is also not mentioned and this can cause even more disturbance than music, as it is louder (in order to be heard over the music).

To get a true picture of the disturbance level, all three of these noises need to be simulated synchronously at the 120dB level. Management changes to SSSI's are meant to enhance them, whereas this study seeks to quantify the level of disturbance of the proposed changes.

The Consultant found that 11% of the birds surveyed showed a degree of disturbance-related behaviour (see 4.4) at the (too low) 100 decibel emission level and this is a damning indictment of the developer's application. The consultant also admits that SSSI birds local to the visitor centre are already exhibiting disturbance displacement behaviour from existing anthropogenic sources, including, presumably, DCWW's own damaging activities. Saying that birds have "adapted" to anthropogenic events by relocating to the west and north of the reservoir (see 4.1), is a bizarre turn of phrase which really means "have been disturbed by".

The cumulative effects the current anthropogenic disturbance (as admitted above), noise from new events and increased light pollution are a toxic mix which can only add to the level of disturbance.

## Conclusion

Gwent Ornithological Society objects to the planning application because it is certain to cause additional bird disturbance. This SSSI forms one of the three regionally important wintering waterfowl refuges in Wales and should be protected. The plan to hold Outdoor music Events on the reservoir's banks are an outrage which should not be contemplated. The winter survey adds nothing due to the reasons given above.

**Torfaen Friends of the Earth** - Object to the above planning applications on the following grounds:

The applications could not be considered as essential for human need to justify the impact on the ecosystems of this site of special scientific interest, which would trigger a downward trajectory of sustainability.

- We see no further evidence in the Noise Impact Report to support the current applications. The report gives no evidence of a vibration impact being undertaken, and only references noise levels, and in this respect pays no attention to night time music pollution when most birds sleep.
- The Welsh Government Policy document "Building Better Places: The Planning System Delivering Resilient and Brighter Futures, refers to the Green Infrastructure and the drive towards building resilient ecological networks. It also highlights the importance of improved soundscapes in the built up environment, acknowledging the need for noise reduction in our lives as an important element in healthy living, not least our mental as well as physical health.

- The building, in which these planning applications seek to allow music, was not designed or constructed with the intention of it being used for late night music and therefore, does not incorporate the necessary requirement of sound reducing design or materials.
- It follows, therefore, that to introduce late night loud music and disturbance into a naturally peaceful soundscape, valued as such by many people, is in contravention of this Welsh Government policy.
- In respect of otters, the EIA report states that the Ranger had not found any evidence of otter activity in the southern end of the site. This is not to say that otters do not move within this area, particularly at night when they are most active, but that no evidence could prove that they did. However, absence of evidence is not evidence of absence. Therefore, it cannot be stated that lack of evidence is proof that otters do not utilise this area. The same can be said of badgers. Both these species are protected under legislation, of course. To ignore this point is not an acceptable position if a precautionary principle approach is claimed to have been taken.
- Environmental impact studies can only provide evidence so far, and that a habitat can have the potential to support a species, even though the evidence of that species existence cannot be proved one way or the other. This is the limitation of our abilities, and often it is only in hindsight that we can understand the impact of human activity on the environment when we see it start to deteriorate in ways unforeseen. In an area as obviously environmentally beneficial to humans and wildlife, further human intervention of noise, lighting and vibratory activity can only ever have a negative impact. What cannot be proved, therefore, is the EIA conclusion that the wildlife will only be minimally impacted.
- Until EIAs recognise the impact of vibration on wildlife by human activity such as this planning application will introduce, it cannot be stated that impact will be minimal. It is the total package of everything combining which will have its worse effect. The only sensible outcome for the use of the precautionary principle in this instance, is not to allow these planning applications to succeed.
- Llandegfedd Reservoir is recognised as a Special Landscape Area and given the designation of an SSSI. It should remain as a place of peaceful enjoyment for the benefit of its many current users. Additional uses, such as meetings by other organisations during normal daylight hours, could be explored with the agreement of existing users, such as the sailing club, because these would not impact negatively on wildlife or the neighbourhood. It could provide the supplementary income Dwr Cymru require, without the loss of the peaceful, quiet enjoyment by families, especially children who are encouraged to explore the beautiful surrounding area, learning to discover and value its wildlife.
- Wildlife is very nervous and shy. Disturbance leads to loss of species, and ultimately to the spoiling of the enjoyment of the site. Learning how to be careful around wildlife is something people need to understand and commit to. The introduction of alcohol and night time music could not guarantee such respect. To extend hours to midnight for use by hirers using music and alcohol will destroy all that people love about this place and ruin it for the majority of its visitors. It will be out of keeping with the character of the area and lose its peaceful nature.
- In recent months, people have recognised more the healing power of the natural environment since the impact of the Covid 19 pandemic. They want further measures taken to protect the environment for future generations. This is the message countless people have been sending to all levels of government to urge them to make policy decisions to future proof our environment. The Welsh Government in releasing its "Building Better Places" policy document is recognising this need. It is now up to local authorities to implement this policy in their planning decisions.
- Highway safety is a considerable concern of people especially those living locally. The dark, country roads which surround the reservoir require careful driving. Approval of this planning application would not be a sensible decision.

***Further comments received following submission of over wintering bird surveys:***

Having carefully studied the report, we wish to state that our position regarding the effect of the proposed development on overwintering birds, and indeed the wider species affected, has not changed in our opposition to these planning applications.

The aim by Welsh Water is persistently to seek to maximise the profit on their investment, and this by a company declaring itself to be a not for profit company embracing the sustainability goals of the (Wales ) Future Generations Act 2015.

The negative impacts of human activity world-wide on wildlife habitats is well known and cannot be overstated. Migrating and overwintering birds are losing habitats and experiencing disturbance across the world. We, in this country should be increasing opportunities to counteract this loss, not the reverse.

Climate change brought about by human activity on the natural world requires responsible companies, and individuals, to examine critically their own aspirations against this scenario and to make the judgement call on limiting them.

**Usk Civic Society** - Usk Civic Society objects to both these applications to alter the hours and conditions of use of these premises at Llandegfedd Reservoir. It agrees with many of the objections made by local residents, amenity groups and even MCC's own environmental health team about the effects of these proposals.

First, the main function of the reservoir, apart from storing water, is to provide a suitable environment for wildfowl, particularly passage migrants and winter visitors. Its designation as an SSSI reflects this role. Unpredictable and intermittent noise such as would result from the venues' use for functions late at night cannot be consonant with this role, as the birds must suffer disruption and disturbance.

The Society notes that MCC's own environmental health team has in relation to previous applications considered the noise pollution data supplied by the applicant to be defective in that it fails to properly reflect the effect of noise from parties and functions on the residential sites around the reservoir. It also fails to take into account the effects of opening doors and windows and of using a marquee for some functions. The noise assessments now provided for both venues are somewhat disingenuous in that they assume a noise level of 80 decibels. Various other objectors have pointed out that this is a substantial underestimate of likely noise levels from a social function with music these days. It also looks at the noise levels from each of the two venues in isolation, and therefore fails to consider the cumulative effect of simultaneous or overlapping functions. And it must be remembered that any increase in decibel levels is logarithmic.

The suitability of an application for these changes from an entity which is a public body and a public authority under the terms of the Well Being of Future Generations (Wales) Act 2016 and the Environment (Wales) Act 2016 appears to be at odds with its statutory duties under these Acts. The use intended to be made of the facilities at Llandegfedd appears to be solely for the purpose of making a commercial profit. The Environmental Impact Assessment now provided appears complacent about the effects of the additional noise and disturbance on both human and animal residents and visitors to Llandegfedd reservoir and the neighbouring village of Coed-y-Paen. The conditions imposed on usage and operating hours for the two centres as conditions to the original planning applications for their construction were imposed for good reason. No reason has been given why the inhabitants' peace and quiet enjoyment of a rural location should now be set aside, perhaps because there is no valid one.

Although MCC Highways appears to consider that the narrow lanes providing access to the site will be capable of coping with the extra traffic, including large service vehicles, which will be generated by the use of these facilities for functions, often at night, it must be questionable whether this is really sustainable without creating additional hazards for residents. The narrow lanes to the east of the reservoir are seen as a particular problem. The testimony of those residents is that a problem already exists; traffic associated with late evening functions can only make things worse.

***Further comments received following the submission of over wintering bird surveys:***

Usk Civic Society has seen the latest developments in these two cases, in particular the further work by the developer's ecologists and the rebuttals by local objectors, Gwent Wildlife Trust and



Torfaen Friends of the Earth. We agree with their assessments that this further work is not thorough enough in terms of observation time, realistic modelling of conditions and its general construction. It provides no basis on which MCC could reasonably derive reassurance as to the consequences of allowing these applications. We therefore submit that, for the detailed reasons set out, particularly in the GWT document, that MCC should refuse them.

We have an additional concern about vehicular access to the sites for social functions in the evening. MCC Highways has consistently maintained that the lanes can cope with any additional traffic. On the east side of the reservoir, towards Llanbadoc and Usk, the roads are narrow (mostly single track) and twisty, with poor visibility. As local residents we question their suitability for the use now proposed.

We also question whether the applicant should be seeking to pursue noisy and damaging commercial activities at these sites in view of its status as a non-profit company which is bound to operate this SSSI in conformity with the sustainability goals set put in the (Wales)Future Generations Act 2015.

### **Coed y Paen Residents Association - Object.**

- The proposals put forward by DCWW would fundamentally change the nature of this SSSI / SLA and have the potential for serious harm to its wildlife and fragile ecology, already under threat from increased and inappropriate human activity.
- In its SSSI citation, CCW recognised the threat of damage to the features of interest from 'Recreational activities', seeking to 'balance people's enjoyment of the reservoir with the needs of wintering birds'. The 'Site Event Management Plans' submitted by DCWW make clear that many of its proposed 'recreational activities' pay scant regard to the needs of the reservoir or its bird population: 'Dog shows/Christmas Fayre/classic car rally/Santa visits/Mother's Day events/ Family Fun events. DCWW 'also envisage a programme of larger events/displays...' The admission that this 'list is neither exhaustive nor exclusive' is worryingly open ended. The plan for live and amplified music, indoors and outside is alarming.
- Such activities would dramatically upset the 'balance' between people and nature. By failing to "conserve the tranquillity, unspoiled character and recreational function" recommended in your LANDMAP (2007) assessment, Llandegfedd Reservoir becomes an Entertainment Venue.
- Provision of alcohol at late night social gatherings near to water is dangerous; together with outdoor music it is likely to attract & promote behaviour inappropriate in this environmentally sensitive area. Local residents already experience huge amounts of litter; large gatherings of people result in anti-social behaviour with evidence of alcohol and drug abuse. Traffic can become intolerable.
- The need to promote a sense of physical and mental well-being has been highlighted by the intense period of the Corona Virus pandemic. Lesley Griffiths (then Minister for Environment) said "we have seen a greater appreciation of nature during the pandemic and the way in which it underpins our health, our economy and our wider wellbeing ...The Welsh Government is committed to halting and reversing the decline in nature and making sure everyone in Wales can enjoy nature from their doorstep..." The Nature Recovery Action Plan for Wales 'refreshed' for a 'post covid world' aims "to deliver the benefits for biodiversity, species and habitats, avoid negative impacts and maximise our well-being" . We request that our LPA ensures avoidance of 'negative impacts' that these DCWW proposals would inevitably deliver, as access to quiet enjoyment and appreciation of nature will be denied to visitors during organised events.
- The plethora of confusing conditions being suggested will be impossible to enforce and the valuable qualities of this SSSI put in jeopardy.
- In April 2018, the United Nations called for 'at least half the world to be more nature friendly to ensure the wellbeing of humanity '; in June 2019 our Welsh Government declared a climate emergency; in April 2021 Wildlife Trusts Wales called for new laws as 'Nature and wildlife is undergoing a mass extinction event'. DCWW's applications seem contrary to the much-stated International, National and local objectives for the future of our planet, in which the preservation of environment and natural habitat is central to our future.

- At an EGM in December 2019, Glas Cymru Holdings passed a Special Resolution under Article 2A: The purpose of the company is to provide high quality and better value drinking water and environmental services so as to enhance the well-being of its customers and the communities it serves, both now and for generations to come. Dwr Cymru are in prime position to set standards of excellence, becoming an exemplar in the pursuit and promotion of environmental objectives in Wales.
- The WG Planning Policy Post Covid 19 Recovery (2020) states: This is once in a generation opportunity for us to reset the clock and think again about the places we want to live, work and play. We need to build a cleaner, greener society ... which respects the environment' As LPA, we suggest you are in a prime position to seize this opportunity and deliver the 'Nature Based Solutions' called for by our Government.
- In considering these applications we suggest both Dwr Cymru Welsh Water and Monmouthshire LPA have opportunity to work together to champion urgent interests of the well-being of our wildlife and human communities, both now and for the future.
- A statement by DCWW 's CEO says, "we are developing our visitor attractions as hubs for health and wellbeing..." (03/2021).The plans before you suggest otherwise. In their Site Events Management Plans DCWW express their "inherent wish to ensure that this development takes place with the full consent and support of the local neighbours and stakeholders" To be clear, the local neighbours neither consent nor support such plans.

***Further comments received following the submission of over wintering bird surveys:***

We have delayed our response to allow time to study opinions from our wildlife charities . Without exception, they all conclude there is potential for harm to our wildlife and habitat. Inadequate Noise Assessments demonstrate, in addition to wildlife disturbance, potential for disturbance to privacy, amenity and health of residents, as previously experienced.

Throughout various documents, the applicant makes reference to mitigation measures, as does the somewhat muted response from Natural Resources Wales . The discussion of 'mitigation' explicitly accepts that harm will be caused; mitigation measures merely reduce its severity .

The number and complexity of conditions discussed renders them incapable of being enforced, as currently evidenced by continued and regular light pollution in breach of extant planning permission. Welsh Government Circular 2014 requires Conditions must be enforceable and your own Biodiversity Officer casts doubts over whether the DCWW Management Plans are 'enforceable documents'.

These Management / Site Event Management Plans remain as evidence of the unknown extent of Dwr Cymru's intentions to develop the Llandegfedd Reservoir SSSI / SLA into a Licensed entertainment venue . Multiple iterations of these plans state they ' supplement and reinforce ' ... perhaps in a deliberate effort to confuse. The lists of 'activities ' within these plans are ' neither exhaustive nor inclusive ' ; such lists are further compounded by continuing with the statement : 'DCWW also envisages a programme of larger events ...' On any reading, it is clear that this 'carte blanche' approach to whatever activities / events / displays DCWW choose to hold at Llandegfedd SSSI, remains unchanged. The cumulative impact of these open ended ambitions utilising two buildings, two outdoor terraces , one marquee plus outdoor areas, has not been adequately addressed. Whilst statements have been made by Dwr Cymru to remove certain aspects of the planning applications , there is no evidence they will be honoured and the applications remain unchanged.

Dwr Cymru repeats its statement that "there is an inherent wish to ensure that this development takes place with the full consent and support of the local neighbours and stakeholders ." We can only repeat that we neither consent nor support such plans and maintain all previous objections .

We urge Monmouthshire County Council to reject these applications and discharge its duties as LPA in line with 'FUTURE WALES - NATIONAL PLAN 2040 ' achieving climate resilience , developing strong eco-systems and improving the health and wellbeing of our communities.

5.4 Local Member Representations

Cllr V Smith - I maintain my original views, do not support this new consultation. Your Biodiversity Officer Kate Stinchcombe's comments on the cumulative impact on nature and the environment of proposals are excellent.

There are numerous venues for meetings and functions locally.

Have recently been made aware of antisocial behaviour at both ends of the reservoir, raises the question as to how secure the site is, at present it is possible to walk down from the car park at night, and go wherever one pleases about the reservoir.

Please note all representations can be read in full on the Council's website:

<https://planningonline.monmouthshire.gov.uk/online-applications/?lang=EN>

## **6.0 EVALUATION**

### **6.1 Principle of Development**

The application site benefits from planning permission under ref no. DC/2012/00442 and has already been built and is occupied by DCWW. Condition 7 of the approved permission reads as follows: The premises shall not be used for the approved purposes outside the times of 7:30am to 9:00pm.

It is proposed under this application to increase the use of the water sports centre so it can be used by DCWW for a wider array of uses as well as extending the operational hours of the site from 09:00 – 21:00 to 06:00 to 00:00.

The proposal does not sit neatly within a specific policy within the adopted LDP. However, it is acknowledged that the water sports centre is already in existence. Currently the water sports centre operates as a base for a number of water sports activities run directly by DCWW site teams or under license to DCWW by a number of clubs and license holders. These activities include sailing, paddle boarding, kayaking, school holiday activities for children, birthday parties and corporate events. There is a portable pontoon and a number of slipways located in the "Sailing bay" area at the front of the Water Sports Centre and vessels are all launched from this location. Changing and toilet facilities are all available in conjunction with the above uses.

The building also contains a multi-use room on the ground floor which is used for training and courses and is made available via a booking system for use by license holders such as the Sailing Club, Cadets etc. The proposed extension of opening hours and expansion of the functions of the centre does not fundamentally change the use of the building.

*Land based only* activities are currently permitted during the winter months 1st Nov - 28th Feb due to the site being a SSSI. It is not within the gift of the Local Planning Authority (LPA) within this application to restrict the use of the site for uses allowed (up to 28 days per year) under Permitted Development Rights. However, the number of events within the water sports centre can be controlled by condition. In this instance 12 per calendar year is suggested as being reasonable should Members be minded to approve the application.

Subject to no outdoor events (and no indoor events prior to the submission of a wintering bird monitoring programme – see condition 4 below) being held during the closed winter period (November to February), the cumulative impact of an event utilising a marquee (arguably not development), the visitor centre and water sports centre (which would, by its nature, be infrequent) is unlikely to have a significant adverse impact on the SSSI.

### **6.2 Visual Impact**

The application does not include any physical changes to the any of the buildings or the wider site. As such, there will be no additional impact on the character and appearance on the surrounding area as a result of this application.

### **6.3 Green Infrastructure**

The area, under DCWW's ownership, comprises a Visitor Centre and water sports centre, as well as other disused buildings and areas of woodland and grassland. The site is open to the public for recreational use, predominantly for walking and water sports. It is itself therefore considered to be a Green Infrastructure Asset that should be open to the public to enjoy. This ties into the aspirations of PPW11 in relation to Place Making. Places can promote social, economic, environmental and cultural well-being by providing well-connected cohesive communities. Places which are active and social also contribute to the seven goals of the Well-being of Future Generations Act (see 6.11).

#### 6.4 Biodiversity

The proposals are intended to expand the water and land based activities available to the public which will by their nature attract more people, a wider range of activities and longer duration of activities throughout the day and the year. Land only activities are currently only permitted during the winter months 1st Nov - 28th Feb. The 'closed season' for the SSSI is Oct 1<sup>st</sup> - February 28th. The impacts of the proposals are predicted to arise from additional disturbance (noise, visual and lighting) that could impact on the SSSI (overwintering birds), other birds, bats, badgers and otter. Increased noise from vehicles, people and any PA systems are a particular concern for the key species noted above. Traffic could also be an issue for road mortality of species such as otter and badger.

SSSIs are of national importance. The Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000, places a duty on all public bodies, including planning authorities, to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of the features by reason of which a SSSI is of special interest. This is reflected in Planning Policy Wales 11 ... There is a presumption against development likely to damage a SSSI and this presumption should be appropriately reflected in development plans and development management decision.

The site is designated for the overwintering wildfowl that use the water and banks of the reservoir for roosting and feeding. The potentially damaging operations identified in the site citation for the SSSI include recreational activities.

The Council typically refer to NRW advice on proposals in relation to the SSSI, however during the consideration of this application a number of issues need to be addressed before the LPA, can be satisfied that there will not be an impact that will prevent the council from complying with policy and legislation. It was initially unclear from the submission which activities would be undertaken during the closed season, their frequency and the cumulative nature of the activities. The updated EclA clarifies in section 1.1: In line with the current agreement, no water sport activities are to take place on the reservoir, between 1st November and 28th February (except for Sunday during November when sailing in the southern part of the reservoir is permitted). This does not amend the current agreement where no outdoor events will occur between 1st November and 28th February.

In terms of the impact of noise on ecological habitats and protected species, noise impact assessments have been carried out by Ricardo Energy and Environment to assess the concerns that has been expressed about the potential effects of noise arising from the extended hours of use of the visitor centre which is intended to operate as a meeting space and functions venue for internal and external hire, enabling greater use by local residents. The mitigation (section 5) of the EclA states: ***No outdoor events will occur within the close season (1st November and 28th February) when the SSSI wintering bird population is present.***

The over wintering bird surveys found an increased in behavioural responses during periods where music was played externally at 100db, with flocks of mallards (an interest feature of Llandegfedd reservoir SSSI) moving away from the source of the noise. Some behavioural responses were noted in mallards at 80db located within a 90m buffer. The survey report concludes that based on the peak counts of waterfowl and number of birds observed making behavioural changes in response to noise stimuli '...it is not anticipated that elevated noise levels

(up to 100dB) and the proposed modifications to planning conditions will result in significant impacts on waterfowl abundance at Llandegfedd reservoir.

It is acknowledged that the sample level for the surveys is low, with noise assessments undertaken on only three dates. In order to improve the robustness of the survey data, a survey schedule encompassing the entire winter period would have been preferred. The failure of the submitted Wintering Bird report to draw upon any previous noise disturbance research to back up the assessment (and ultimately the conclusions) of the report undermines their reliability. Nevertheless, despite such inadequacies, with the imposition of strict management limitations that includes no outdoor activities throughout the main overwintering period (November – February) and a restriction on indoor events over the same period until a wintering bird monitoring programme has been submitted to and agreed in writing by the LPA, it is considered that the application is not likely to have an adverse impact on features of the Llandegfedd Reservoir SSSI.

The key suggested conditions in relation to safeguarding the overwintering bird interest of the Site of Special Scientific Interest and the Severn Estuary European Marine Site, should Members be minded to approve the application, are as follows:

*There shall be no outdoor events between 1st November and 28th February in the succeeding year.*

And;

*No indoor events between 1st November and 28th February will be permitted until a wintering bird monitoring programme has been submitted and agreed in writing by the LPA. The monitoring programme must detail methodology to monitor the location and behaviour of wintering birds during indoor events and must include the following:*

- a) Methodologies for undertaking the bird monitoring over a five year period*
- b) Noise monitoring methodologies*
- c) Identification of early warning triggers for remedial actions if detrimental impacts are identified*
- d) Mechanisms to secure remedial actions and a commitment to suspend events if necessary*
- e) Persons responsible and lines of communication*
- f) Reporting arrangements to the LPA and NRW including a timetable capable of being rolled over for the duration of the monitoring*
- g) Review periods for monitoring methods and programme duration*

*The monitoring must be undertaken by an appropriately experienced ornithologist that is not directly employed by DCWW. The monitoring programme shall be implemented in full.*

It is critical that the results of monitoring are linked to curtailment of operations at the site e.g. reducing the dB trigger for noise limiting devices, reducing the frequency / type of events and therefore the above wording includes the addition in point (d) as requested by NRW.

In terms of other European Protected Species, a badger survey has been provided in support of the application. Impacts on this species have been screened out on the basis of their ecological importance in legislation. The management plans incorporate triggers to consider mitigation for badger should road fatalities be recorded.

Reference is made to the likely use of the north of the reservoir by otters following a survey around the water sports and visitor centres. There are opportunities for otter to maintain north-south movement in the wider catchment, however, there is some potential for increased otter road mortality associated with an increase in vehicle movements. It is noted that the site event management plans refer to monitoring of road mortality in relation to events. This needs to be linked to action if road mortality becomes an issue. A separate planning condition is recommended for this should Members be minded to approve the application.

The extended operating hours from 9pm to midnight also has the potential to increase the lighting internally from each building for an extra 3 hours per night. The latest EclA considers the potential impact of three hours of additional artificial lighting specifically for bats and otter. The assessment

concludes for bats that there are additional areas of foraging/commuting habitat available and due to the nature of the site, and alternative foraging commuting areas in this high value landscape. It is also worth noting that NRW have not objected to the potential loss of the night roost in the visitor centre as the result of further lighting. It is noted that a new hedgerow has been planted, which is welcomed. An alternative lesser horseshoe location should be offered to ensure there is no net loss of biodiversity, although this is unlikely to be a licensing requirement.

Planning Policy Wales (PPW) 11 sets out that “planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity” (para 6.4.5 refers). This policy and subsequent policies in Chapter 6 of PPW 11 respond to the Section 6 Duty of the Environment (Wales) Act 2016.

The currently submitted enhancement plan is insufficient for the purposes of this application. There is a lack of detail with regards to the proposed ‘new grass cutting programme’ with neither the management prescriptions, aims or location provided. Whilst promoting the growth of meadows at the site is tentatively welcomed, relying on a grass cutting programme to deter walkers seems only likely to be of use in the peak summer months. The installation of physical barriers to prevent access to the waterbody and meadow habitats would seem a far more effective solution, and potentially work to reduce disturbance of waterfowl during the overwintering period for which the SSSI is designated. Other habitat measures to offer feeding/sheltering habitat for overwintering wildfowl would be highly encouraged.

Whilst work to remove areas of overgrown willow as part of the applicant’s responsibility to maintain the SSSI is welcomed, this is currently ongoing work and part of the landowner’s responsibility for the managing the SSSI. Therefore, this cannot be considered as a biodiversity enhancement feature. No details including numbers, specification or location of the proposed bird and bat boxes have been provided. It is understood that existing nesting provision at the northern end of the reservoir have fallen into disrepair and replacing these nesting locations would be welcomed. Consequently, in order to meet the requirements of PPW 11, an Ecological Enhancement Plan will need to be submitted which includes a map detailing the location of the proposed enhancement measures. Furthermore, details including management prescriptions, aims and targeted species should be included. This can be secured via condition should Members be minded to approve the application.

As the site is within close proximity to the Severn Estuary European Marine site (SPA, SAC, Ramsar), the Council had to undertake an Appropriate Assessment under the Habitats Regulations Assessment. This has concluded that adverse effects on the Interest Feature can be avoided or overcome by implementation of the planning condition “*No indoor events between 1st November and 28th February will be permitted until a wintering bird monitoring programme has been submitted to and approved in writing by the LPA....*”. It is noted that NRW agreed with this conclusion in their formal consultation response. Additional Measures considered necessary to protect the integrity of the Severn Estuary EMS include conditions to secure the implementation of the following documents submitted in support of the application:

- Noise Impact Assessment on the SSSI by Ricardo Energy and Environment, Revision 1, dated 12 February 2021
- DCWW - Llandegfedd Visitor Centre - Site Event Management Plan [submitted 13 July 2022] or
- Ecological Impact Assessment, by Ricardo Energy and Environment, Issue No 5, dated 12 March 2021.
- A detailed condition is also required in relation to the monitoring that is referenced in the above documents (see detail below).

On the basis of the above, it is concluded that the project will not adversely affect the Integrity of the Severn Estuary EMS alone or in combination with any other projects subject to the agreement of the detail of the planning conditions.

On balance therefore and only subject to conditions, it is considered that the proposed additional use of the water sports centre will not adversely affect the SSSI or Protected Species and meets the requirements of LDP Policy NE1.

## **6.5 Impact on Amenity**

Policy EP1 of the LDP relates to Amenity and Environmental Protection advising that proposals that would cause or result in an unacceptable harm to local amenity, health, the character of the countryside or interests of nature conservation, landscape or built heritage due to noise pollution will not be permitted, unless it can be demonstrated that measures can be taken to overcome any significant risk. There are no residential properties within close proximity to the development, with the nearest property being located on the opposite side of the reservoir.

Noise impact assessments have been carried out by Ricardo Energy and Environment to assess the concerns that has been expressed about the potential effects of noise arising from the extended hours of use of the water sports centre which is intended to operate as a meeting space and functions venue for internal and external hire, enabling greater use by local residents. As the nearest residential property is located over 400m from the facility any noise generated from the facility will have a negligible effect on the amenity of any residents.

The Council's Environmental Health Officer has commented that they have no objections to the application. Although as agreed by the applicant and detailed in both their noise impact assessments and site management plans, they would suggest that if planning permission is granted, the following conditions be included:

1. Outdoor events are limited to 12 per year and must finish, including the use of amplified recorded music and PA systems no later than 5pm.
2. All outdoor events be subject to a noise management plan submitted by the applicant to be approved by the Local Planning Authority.
3. All indoor events at both the visitors centre and the water sports centre, including any amplified recorded/live music should finish no later than 11pm.

It is agreed that the suggested conditions nos. 1 and 3 above should be attached to any consent that Members are minded to approve. However, with regards to point 2, given the other restrictions suggested to limit noise (see paragraph 6.4 above), to require a noise management plan for every outdoor event would be too onerous on the developer and would not be necessary.

The development is therefore considered to meet the requirements of LDP Policy EP1.

## **6.6 Highways**

### 6.6.1 Sustainable Transport Hierarchy

Due to the rural location of the reservoir, there are no public transport links to the site. However, given that the site is mainly for recreational purposes this is not unusual and it has to be accepted that most visitors will access the site using a private motor vehicle.

### 6.6.2 Access / Highway Safety

Vehicular access into the site is from the south via the private road which runs along the periphery of the reservoir. The access road leads past a manned gatehouse and then follows the reservoir edge to the water sports area where there are slipways, mooring and storage facilities and parking areas. The access road is gated and connects with the adopted highway to the south, providing access to Wellfield Close and the identified parking area associated with the reservoir to the east and Sluvad Road to the west. The latter is accessed via the road which runs along the reservoir's dam wall. No changes to the existing access arrangements are proposed as part of this planning application.

This application has the potential to increase vehicular traffic to and from the reservoir, however, this will be negligible when considering the number of vehicular movements associated with the current use of the facilities. MCC Highways did not raise any objections to the previously submitted S73 application and it was agreed that the later opening hours would not cause any detrimental highway impacts. The site gates will continue to be locked at night and site secured with overnight security. On this basis, the application is considered to be compatible with relevant chapters of Planning Policy Wales and LDP Policies S16 and MV1.

### 6.6.3 Parking

A large car parking facility is provided on a plateau, to the south-east of the visitor facility. There is no direct vehicular or pedestrian access to the water's edge from the car park although the public are able to access the grassed and wooded areas above the reservoir. An additional parking area is provided adjacent to the visitor facility's southern elevation. It is considered that this level of parking is adequate for the increased use of the water sports centre.

## **6.7 Drainage**

### 6.7.1 Foul Drainage

No changes to the existing foul drainage are proposed as part of this development.

### 6.7.2 Surface Water Drainage

There will be no changes to surface water drainage as a result of this application.

## **6.8 Response to the Representations of Third Parties and/or Community/Town Council**

In reviewing the above objections, it is clear the principal concerns to the application include the following:

- Impacts on biodiversity, specifically concerns on impact on SSSI status as a result of increased activity, lighting and noise.
- Future management of site from environmental perspective.
- Increase in traffic and insufficient parking provision.
- Noise pollution and general increased public nuisance.
- Public safety concerns - danger of licensed venue next to open water.
- Security concerns (i.e. managing events on site).
- Negative impact on rural economy (i.e. other venues in close proximity).
- Displacement of sailing club and type/duration of events proposed - negative impact for water sports users;

The potential for 'general increased public nuisance' is considered to be of low relevance in terms of planning as the potential behaviour of the public is not a material planning consideration but should be managed under other legislation (Environmental Health and Health & Safety) as well as the operator of the site. The facility is located within an area which is open to members of the public and the building can already be occupied until 9pm. The majority of the additional meetings and activities taking place will be within these defined hours.

On the occasions where the centre will need to be occupied for a longer period of time, the impact is considered to be low, especially given the continued restriction on when events can take place. A condition preventing any outdoor events over the winter months will ensure that the additional use of the building will not adversely affect the population of overwintering birds. Furthermore, restrictions on the number of outdoor events per year and time restrictions on music for both indoor and outdoor events will prevent noise pollution. It is considered that conditions to this effect can be effectively monitored and enforced by the Council's Enforcement Team and Environmental Health Team. The SSSI also affords its own protection under separate legislation.



In terms of the deficiencies of the noise disturbance report and over wintering bird surveys referred by, amongst others, Gwent Ornithological Society, GWT and Torfaen CBC's ecologist, the noise disturbance assessment was based on the 69 decibels (dB) of noise estimated at point E (within the SSSI boundary) due to outdoor events at the water sports centre (see Noise Assessment Report1 ) and a maximum of 100 dB as part of this noise assessment conducted was deemed sufficient. The noise assessment methodology had been agreed with Monmouthshire Council's Environmental Health Department based on the scope of work. *Furthermore, since the noise surveys were conducted, the applicant has confirmed that there will now be no events with external music at the reservoir.* On this basis, any noise generated by the extended use of the building will be below the level used to draw the conclusions in the noise report and will therefore have less of an impact on local residential amenity and wildlife than expected.

A total of 10 wintering bird surveys were undertaken between October 2021 and March 2022. Although it had been previously requested by the Council's Biodiversity Officer that two wintering bird surveys per month were undertaken, during both October and December 2022 only a single survey was undertaken. Instead, the bird survey submitted by the applicant compares outputs of the 2021/22 wintering survey to publicly available WeBS data to note discrepancies and similarities in the absence of repeated surveys.

Due to the scope of the wintering bird surveys, surveys of the northern extent of the reservoir were largely undertaken at Pettingale hide (three surveys). By repeating surveys at Pettingale hide, this allowed comparison with surveys conducted from the Visitors and Watersports Centre. In addition, Pettingale hide provides greater area coverage in comparison to Bert Hamar hide (1 survey completed) that has a restricted view due to vegetation. The Council's Biodiversity Officer has indicated that they are comfortable that the two vantage points are sufficient for accurately recording behaviour and activity levels on the main body of the reservoir.

In terms of large numbers of black headed gulls referred to, peak counts of 400 black-headed gulls were recorded from Pettingale hide and the survey methodology of the local birdwatcher is likely to vary from what was conducted on behalf of the applicant. MCC's Biodiversity Officer commented that while more dusk surveys should have been incorporated into the survey programme, overwintering roosts of black-headed gulls are not a feature of the SSSI or Severn Estuary Marine EPS, and therefore do not have legal protection from disturbance. Nevertheless, the restriction of outdoor events during the winter period (see condition no.3) should ensure that the roosts are unaffected by the application.

It is acknowledged by NRW and the Council's Biodiversity Officer that elements of the survey methodology and reporting mean that there remain elements of doubt with regards to robustness of the submitted survey data. Nevertheless, despite such inadequacies, with the imposition of strict management limitations that includes no outdoor activities throughout the main overwintering period (November – February), on balance it is considered that the application is not deemed likely to have an adverse impact on features of the Llandegfedd Reservoir SSSI. This conclusion is shared by NRW who are the Statutory Advisor to the Local Planning Authority on such matters.

The removal of the outdoor live or recorded music element of the proposed use is included in the latest Management Plans submitted by the applicant. Both NRW and the council's Biodiversity Officer advise that the management plans should be referred to as approved documents in any approval notice. On this basis, the contents are part of the approval and will be binding on the applicant and therefore no further mechanisms to restrict outdoor music are considered necessary.

Concerns have also been made with regard to the impact on the rural economy and in particular other venues in close proximity. The nearest venue that offers space that could be used for meetings, functions and events is the Carpenter's Arms in Coed-Y-Paen. Whilst there are therefore overlapping services that each would offer, the two venues are not directly comparable, and both would offer various other services and functions that the other does not. Policy CRF1 of the LDP seeks to retain existing facilities for communities rather than preclude other sites providing some comparable services. Planning Policy Wales (Edition 11) also makes it clear that it is not the role of the planning system to restrict competition. It is recognised that the Carpenter's Arms, as well as other such facilities in the wider rural area, provide an essential element in

promoting the quality of life in, and sustainability of, local communities and having regard to the limits on events, particularly those outdoors, that would be secured through the conditions set out in Section 7 below, it is considered that the proposal would not significantly adversely impact upon the rural economy or existing community facilities – most of which would not have such restrictions on events as proposed in this instance, such as outdoor events and music.

In terms of safety of people under the influence of alcohol and during the hours of darkness being near the water, this would be a Health and Safety issue that would be managed by the operator.

It is unlikely that the increased use would have an impact on water sports users as the two activities would not overlap. For example, the equipment stores and changing areas would not be used for corporate events or weddings.

## **6.9 Well-Being of Future Generations (Wales) Act 2015**

The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

## **6.10 Conclusion**

Subject to the conditions listed below, it is considered that the increase in use of the water sports centre is in accordance with national and local planning policies and will not harm the amenity of local residents or the qualities of the SSSI.

## **7.0 RECOMMENDATION: APPROVE**

### Conditions:

1 This development shall be begun within 5 years from the date of this permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

2 The development shall be carried out in accordance with the list of approved plans set out in the table below. [N.B. This will include the site management plans]

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

3 There shall be no outdoor events between 1st November and 28th February in the succeeding year.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and the Severn Estuary European Marine Site.

4 No indoor events between 1st November and 28th February in the succeeding year will be permitted until a wintering bird monitoring programme has been submitted to and agreed in writing by the LPA. The monitoring programme shall detail an implementation timetable, methodology to monitor the location and behaviour of wintering birds during indoor events and must include the following:

- a) Methodologies for undertaking the bird monitoring over a five year period
- b) Noise monitoring methodologies
- c) Identification of early warning triggers for remedial actions if detrimental impacts are identified
- d) Mechanisms to secure remedial actions and a commitment to suspend events if necessary

- e) Persons responsible and lines of communication
- f) Reporting arrangements to the LPA and NRW including a timetable capable of being rolled over for the duration of the monitoring
- g) Review periods for monitoring methods and programme duration

The monitoring must be undertaken by an appropriately experienced ecologist that is not directly employed by DCWW. The approved monitoring programme shall be implemented in accordance with the approved timetable and managed as such in perpetuity.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and the Severn Estuary European Marine Site.

5 Within 3 months of the extended use commencing, a scheme for the monitoring of Sluvad Road within 800m of the site entrance gate for evidence of Otter or Badger mortality shall be submitted to the LPA. The scheme shall include methods including recording and reporting mechanisms. In the event that any mortality is discovered it will be recorded and reported to Monmouthshire County Council Ecology Officer. The scheme shall include details of thresholds for when remedial measures shall be agreed with the LPA and shall also include an implementation timetable. The approved scheme shall be implemented in accordance with the approved timetable and managed as such in perpetuity.

REASON: To safeguard species of conservation concern.

6 Prior to the approved use commencing, a plan of Ecological Enhancement shall be submitted which provides biodiversity net benefit at the site shall be submitted to an approved in writing by the Local Planning Authority. The scheme shall include future management and an implementation timetable. The enhancements shall be implemented in accordance with the approved timetable and managed as such in perpetuity.

REASON: To provide ecological net benefit on the site as required in Planning Policy Wales Edition 11.

7 The increased use of the Watersports Centre shall be in strict accordance with the avoidance & mitigation measures detailed in the following documents:

- i) Noise Impact Assessment on the SSSI by Ricardo Energy and Environment, Revision 1, dated 12 February 2021
- ii) DCWW - Llandegfedd Water Sports Centre - Site Event Management Plan [submitted 13 July 2022]
- iii) Ecological Impact Assessment, by Ricardo Energy and Environment, Issue No 5, dated 12 March 2021.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and the Severn Estuary European Marine Site.

8 There shall be no more than 12 outdoor events in any calendar year and these shall finish, no later than 17.00. Any such events shall not begin before 07:30

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and local residential amenity in accordance with LPD Policy EP1.

9 All indoor events, including any amplified recorded/live music shall finish no later than 23.00. Any such events shall not begin before 07.30.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and local residential amenity in accordance with LPD Policy EP1.

10 All parking associated with events to be held at the water sports centre shall be limited to existing designated parking areas only. No temporary parking areas shall be created.

REASON: To prevent encroachment of parking during events onto priority habitats and habitats used by wintering birds.

11 The extended hours, permitted by this planning permission, shall not be commenced until a scheme for external lighting has been submitted to and agreed in writing by the Local Planning Authority. Internal and external lighting shall be designed to minimise light spill and ensure that no light spills onto the water of the reservoir or into existing trees adjacent to the proposed site. The external lighting of the development and measures to avoid light spill from the building itself shall be carried out and maintained in accordance with the approved scheme which shall include provision for the lighting scheme to be monitored during the first 12 months of its use and for such modification as may be required to be submitted for the prior written approval of the Local Planning Authority and thereafter implemented and maintained in perpetuity.

REASON: To protect the interests of ecology including protected species and in the interest of safeguarding the features of Llandegfedd Reservoir SSSI.

11. No more than two concurrent events shall take place at any one time.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and the Severn Estuary European Marine Site and local residential amenity in accordance with LDP Policy EP1.

12. No outdoor amplified music shall be used at the site.

REASON: To safeguard the overwintering bird interest of the Site of Special Scientific Interest and the Severn Estuary European Marine Site and local residential amenity in accordance with LDP Policy EP1.

#### INFORMATIVES

- 1 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.
- 2 For the purposes of condition no.11, an 'event' is defined as any event included in the DCWW Site Event Management Plan Visitors Centre (13<sup>th</sup> July 2022).

**Application Number:** DM/2021/00357

**Proposal:** Provision of 120 dwellings on parcels B and C2

**Address:** Rockfield Farm, Undy, Monmouthshire, NP26 3EL

**Applicant:** MHA c/o LRM Planning

## **RECOMMENDATION: APPROVE**

Case Officer: Mr Adam Foote  
Date Valid: 15.03.2021

**This application is presented to Planning Committee due to the level of objections that have been received from the public consultation**

### **1.0 APPLICATION DETAILS**

#### 1.1 Background

The application site forms part of a wider strategic allocation within the Monmouthshire Local Development Plan (LDP) under Policy SAH5 which covers a total of 11 acres for a mixed use employment/residential scheme to include around 270 residential dwellings and 2 hectares of employment land.

Outline planning consent was granted under application ref: DC/2016/00883 subject to a S106 agreement allowing "Master planned development of 13.8 hectares of land for residential use and employment use; up to 266 Proposed residential units and approximately 5575 square metres of B1 floor space". A copy of the completed Section 106 agreement and the full contributions required to be provided is available on the Council's website.

A portion of the overall site to the east of Silurian Road/The Elms has been developed following the grant of planning consent (ref: DM/2018/01606) for "Reserved matters application (pursuant to outline application) for the development of 144 dwellings and associated engineering works". This earlier phase was constructed on parcels A and D of the allocation.

#### 1.2 Site Description

The application site comprises parcels B and C2 of the Rockfield Farm allocation. The site is within the settlement boundary which reflects its allocation under LDP Policy SAH5. This application relates to the central section of the wider allocation to the west of Silurian Road/The Elms. The application site itself consists of undeveloped land lined by hedgerows and hosts a site of interest for nature conservation (SINC), a local designation, which extends through the majority of the site width running west to east. The site is undulating with the general topography of the land decreasing towards the south. The site is bound by the M4 to the north, Silurian Road/The Elms to the east, the existing built form within Undy to the south and the western boundary is contained by the SINC and the remaining employment/industrial allocation.

#### 1.3 Value Added

Various amendments have been achieved since the original submission including an amended layout, biodiversity and green infrastructure enhancements, amendments to the proposed route of the public right of way, the re-distribution of affordable housing, a mix of boundary treatments and enhancements to the areas of public open space.

## 1.4 Proposal Description

With access having been approved at the Outline stage this application seeks reserved matters (RM) approval for the layout, scale, appearance and landscaping of the proposal. This application relates to the provision of 120 dwellings, as well as associated roads, drainage and other services/infrastructure, green space provision and landscaping. There is a requirement for a buffer zone around the SINC to protect its special biodiversity value and an exclusion zone in the northern section of the allocation relating to the M4.

The properties are proposed as a mix of bungalows, flats and houses. The bungalows are single storey, flats 3-storey and houses 2-storey. The scheme would provide 1, 2, 3 and 4 bedroom offerings with a mix in the housing supply offering terraced, semi-detached and detached properties. All properties would benefit from designated parking and amenity areas. The external finish of the properties will incorporate a range of materials that will be arranged in groups to provide a sense of place throughout the development.

Boundary treatments are proposed as a mix of hedgerows, close-boarded fencing, and masonry walls. Along the proposed route of the PROW that runs through the site a mixture of hedgerow and stone facing walls are proposed, the stone facing walls will correlate with the palette of materials proposed for the houses on this section of the development whilst the hedging will soften the built form and provide additional GI and biodiversity value. The boundaries between dwellings will be demarcated by close board fencing whilst other prominent boundaries will be constructed of masonry walls.

## **2.0 RELEVANT PLANNING HISTORY (if any)**

<b>Reference Number</b>	<b>Description</b>	<b>Decision</b>	<b>Decision Date</b>
DM/2021/00358	Provision of 5575m2 B1 employment space on parcel C1.	Pending Consideration	
DM/2018/01606	Reserved matters application (pursuant to outline application ) for the development of 144 dwellings and associated engineering works.	Approved	22.02.2019
DM/2018/01706	Demolition of the farmhouse and outbuilding is required to prepare the site for the next development stage.	Approved	15.11.2018
DM/2019/00239	Reserved matters - conditions 7 (CMP) and 9 (lighting design for Biodiversity) of DM/2018/01606 8 (CMP), 9 (Wintertree Software Inc.), 10 (foul water), and 11 (trees) of DC/2016/00883.	Split Decision	06.01.2020
DM/2019/00431	Discharge of condition 3 (proposed water mains layout) relating to application DM/2018/01606.	Approved	23.05.2019

DM/2020/00387	Discharge of condition 2 (house finishes layout) relating to application DM/2018/01606.	Approved	24.04.2020
DM/2022/00744	Discharge of condition no. 9 (programme of Archaeological work) of outline planning consent DC/2016/00883.	Pending Consideration	
DM/2022/00789	NMA relating to application DM/2018/01606: External wall finish for Plots 95,96,122-124,131-134 & 139-140 changed from the Harborough buff to the Meadow Red brick.	Approved	21.09.2022
DC/2016/00883	Master planned development of 13.8 hectares of land for residential use and employment use; up to 266 Proposed residential units and approximately 5575 square meters of B1 floor space.	Approved	20.03.2018

### 3.0 LOCAL DEVELOPMENT PLAN POLICIES

#### Strategic Policies

S1 LDP The Spatial Distribution of New Housing Provision  
S2 LDP Housing Provision  
S3 LDP Strategic Housing Sites  
S4 LDP Affordable Housing Provision  
S5 LDP Community and Recreation Facilities  
S12 LDP Efficient Resource Use and Flood Risk  
S13 LDP Landscape, Green Infrastructure and the Natural Environment  
S16 LDP Transport  
S17 LDP Place Making and Design  
SAH5 LDP Rockfield Farm, Undy

#### Development Management Policies

H1 LDP Residential Development in Main Towns, Severnside Settlements and Rural Secondary Settlements  
CRF2 LDP Outdoor Recreation/Public Open Space/Allotment Standards and Provision  
SD2 LDP Sustainable Construction and Energy Efficiency  
SD4 LDP Sustainable Drainage  
DES1 LDP General Design Considerations  
EP1 LDP Amenity and Environmental Protection  
NE1 LDP Nature Conservation and Development  
GI1 LDP Green Infrastructure  
EP3 LDP Lighting  
EP5 LDP Foul Sewage Disposal  
MV1 LDP Proposed Developments and Highway Considerations  
MV2 LDP Sustainable Transport Access  
MV3 LDP Public Rights of Way

## **Supplementary Planning Guidance**

Affordable Housing SPG July 2019

Green Infrastructure April 2015

Monmouthshire Parking Standards (January 2013)

### **4.0 NATIONAL PLANNING POLICY**

#### **Future Wales - the national plan 2040**

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales - the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

#### **Planning Policy Wales (PPW) Edition 11**

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

#### **Technical Advice Notes**

Technical Advice Note (TAN) 2: planning and affordable housing

Technical Advice Note (TAN) 5: Nature Conservation and Planning (2009)

Technical advice Note (TAN) 10: tree preservation orders

Technical advice Note (TAN) 11: Noise

Technical Advice Note (TAN) 12: Design (2016)

Technical Advice note (TAN) 15: development and flood risk (2004)

#### **Other National Policies**

The Environment (Wales) Act 2016 places a duty on the Council to maintain and enhance biodiversity, promote the resilience of ecosystems and increase their ability to adapt to events such as the impacts of climate change.

The Active Travel (Wales) Act 2013 makes walking and cycling the preferred option for shorter journeys, particularly everyday journeys, such as to and from a workplace or shops and services.

Well-Being of Future Generations (Wales) Act 2015; The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

### **5.0 REPRESENTATIONS**

#### **5.1 Consultation Replies**



**Magor and Undy Community Council:** Recommends refusal.

**MCC Highways:** Objection.

**MCC Biodiversity:** No objection.

**MCC Landscape/GI:** Provisional holding objection.

**MCC Drainage:** No objection.

**DCWW:** No objection.

**M4 Route engineer:** No objection

**MCC Public Rights of Way (PROW) Officer:** Qualified objection.

## 5.2 Neighbour Notification

This application was advertised in the local press, by means of direct neighbour notification and via site notices. A number of representations have been received objecting to the proposed development, the main issues are summarised as:

Inadequate access, increased traffic volume, increased pollution, increased noise nuisance, overdevelopment, additional strain on community facilities, adverse impact upon ecological impact/loss of green space, lack of public transport provision, increase to flood risk, adverse impact on neighbouring residents, loss of privacy, the development is out of keeping with the character of the area, general dislike of flats which are deemed unacceptable for this area and too high, loss of view, devaluation of neighbouring properties, the development is not providing enough open space, houses are not needed in this area, the houses are too expensive for locals to buy, inadequate parking provision, lack of facilities for your people in the area, loss of rural feel/character and out of date mapping shown for existing neighbouring properties.

## 5.3 Local Member Representations

None.

Please note all representations can be read in full on the Council's website:  
<https://planningonline.monmouthshire.gov.uk/online-applications/?lang=EN>

## **6.0 EVALUATION**

### 6.1 Principle of Development

6.1.1 The application site forms part of a strategic allocation as part of the LDP (Policy SAH5) with outline consent already gained under application DC/2016/00883 and therefore the principle of this development has already been established. Only matters of the details reserved for approval which have now been submitted are for consideration. The main considerations with regard to this application are whether the proposed details are in accordance with the approved outline permission, whether the proposed internal road layout and parking areas are acceptable; whether the proposal is visually acceptable in terms of its impact on the character and appearance of the area; whether the proposal is acceptable in terms of ecological interests of the site; and whether the proposal is acceptable in terms of its impact on the residential amenities of the occupiers of nearby dwellings and future residents.

6.1.2 Parcels B and C2 of the allocation were designated for residential development and this application would provide 120 dwellings in combination with the existing 144 dwellings approved on the adjacent parcel, totalling 264 dwellings which is considered to comply with the requirements of the allocation to provide "around 270 dwellings" and the outline consent which was granted

consent for up to 266 dwellings. It has not been possible to provide the two additional dwellings on this site to reach 266 due to the SINC and its required buffer zone and the attenuation ponds that are required to achieve an acceptable drainage scheme on the site.

6.1.3 Part of the site is designated under LDP Policy DES2 as an Area of Amenity Importance, the DES2 land on this part of the site is private land with no public access and no logical boundary. The land does not fulfil an amenity role, it was previously included as a buffer between the edge of the settlement and the indicative Magor/ Undy by-pass link. There is no justification for this buffer to continue to be designated as an Area of Amenity Importance. It is considered, therefore that there is no conflict with Policy DES2 and no concern is raised to the principle of the development.

## 6.2 Sustainability

6.2.1 The application site is within the settlement boundary as defined on the proposals map of the LDP where there is a presumption in favour of development and the efficient use of land is encouraged. The application site is considered to be a sustainable location in close proximity to local amenities and public transport links.

6.2.2 The site has been designed taking active travel principles into account by providing a series of pedestrian links throughout the site and connecting the site with the wider area.

6.2.3 There is currently no planning policy requiring provision for EV charging to be supplied on residential developments, however the proposal includes provision for the infrastructure for EV charging points to be provided on 84% of plots which will allow for EV charging points to be installed by future occupiers.

6.2.4 There is parking provision provided for each dwelling, some plots have a reduced provision when compared against the MCC Parking Standards. This will be assessed fully in a later section of this report however, the plots that do not accord with the MCC Parking Standards will be provided with on plot cycle storage to encourage active travel. Each of the on plot cycle stores would be designed to Welsh Government Standards.

## 6.3 Place Making/Good Design

6.3.1 The application site is split over two parcels of land, a smaller area to the north and a larger area in the south; this is largely in response to the location of the SINC that cuts through the site in a west-east direction.

6.3.2 An access road for the northern section of the site is proposed running in a west-east direction linking with Silurian road/The Elms to the east and would link with the employment allocation in the west when this comes forward. The dwellings are proposed to the north of the access road with two junctions proposed to provide access to the majority of the properties in the northern section, plots 89-91, 92-94 (flats) and plot 95 (bungalow) are proposed with direct vehicular access onto the road whereas the remaining plots on the northern section are accessed via secondary roads/private driveways. The most northerly section of the site is the closest to the M4 and this area is proposed to host parking, an attenuation pond, landscaping and a pumping station with planting for screening. By clearly separating the dwellings from the M4 this reduces any impact upon future occupiers and allows for a clear, defined separation from the motorway.

6.3.3 The southern section of the site comprises ten houses accessed directly from and fronting Silurian Road/The Elms; this element has been designed to help integrate the development into the area and creates an active street scene. These properties will face the existing dwellings constructed on the adjacent parcel of land previously developed as part of the wider allocation to the east of Silurian Road/The Elms. The remaining dwellings within the interior of the site are proposed to be accessed via two junctions that join Silurian Road connected by a main loop road that runs through the site. Off this road are a series of lower hierarchy roads giving access to cul-de-sacs and private drives. A series of interconnecting footpaths and pedestrian links are also proposed across the site connecting the areas of open space and linking the development with the adjoining development(s) and wider area. The purpose is to provide a legible and interesting

layout with a high degree of permeability throughout the site and to provide an attractive and interesting layout.

6.3.4 The positions and orientation of the dwellings have been given a high level of thought in relation to how they address the street which they serve and the topography of the land to ensure the site is efficiently used but also to ensure that the ecological focus points are well integrated into the layout. This has led to a co-operative approach with the applicant to revise the scheme as originally submitted, agree a revised proposed route for the PROW and to ensure the TPO tree at the centre of the site and the SINC are both integrated into the design and afforded adequate protection. The layout provides a significant amount of incidental open spaces spread throughout the site which links with the play area on an adjacent site to the south west and provides an opportunity for a continuation of a green corridor on the adjacent allocated employment site. The dwellings adjacent to these areas of open space generally front onto these areas, or when positioned on a corner have an element of overlooking onto the open space.

6.3.5 Details of proposed boundary enclosures have been submitted which include close board fencing to enclose the majority of the private rear amenity areas of dwellings, masonry walls and a stone faced wall and hedgerow to line the proposed route of the public right of way. It is considered that this boundary treatment scheme is acceptable for the development and the proposed materials relate well to their position and function within the development. It is considered appropriate to remove permitted development rights in relation to boundary enclosures to ensure control is retained in the future and to ensure there is no unacceptable impact upon the character of the area or upon highway safety.

6.3.6 Gabion walls are required on a section of the development between the rear garden areas of the dwellings on The Elms and those to the rear. This is required in response to the topography of the land in order for the site to be developed. This will result in a formalised level change however this is not considered to result in any unacceptable visual impact or to be harmful to the living conditions of future occupiers. The need for the gabion walls is necessary on this site and is a reality of building on a slope.

6.3.7 The proposed development would provide a mix of residential accommodation including flats, bungalows, terraced, semi-detached and detached properties ranging from 1 to 4 bedrooms. The palette of materials is proposed as follows: render, facing brick, brick detail and reconstituted stone elevations. All properties are proposed with a uniform concrete roof tile. The palette of materials has been grouped into sections of the site to create a sense of place as one travels throughout the development - for example along the proposed route of the public right of way only reconstituted stone and render will be used for the elevation treatment of the dwellings to create a more natural aesthetic, whereas in the northern section of the site the palette utilises facing brick and rendered elevations. This enables the same house types to be used in different locations and for their elevation treatments to be tailored to address the street scene appropriately and allows the house type to respond to its position and relationship with the public realm, creating interest.

6.3.8 It is considered that the proposed layout, scale and appearance of the proposal will not have a detrimental impact on the character and appearance of the area. It is considered that this proposal meets the stated aims of the allocation for the site and is considered to be an acceptable form of development.

## 6.4 Biodiversity/Green Infrastructure

6.4.1 The impact of the development as a whole on Ecology and Nature Conservation was assessed as part of the outline out line and it was established that the development could progress subject to conditions.

6.4.2 A main consideration for this application is the impact upon the SINC, concerns were raised by the Council's ecologist in relation to how the development interacted with the SINC in earlier iterations of the proposal with particular concern being raised to the parking provision along the southern boundary of the SINC and the proposed pedestrian access route and seating area along the northern boundary. Both the parking area and the pedestrian route/seating area have been

removed from the most recent submission and replaced with enhanced planting to reinforce the SINC buffer. The Ecologist has now removed any objection to the proposed development and is satisfied with the amendments to the proposal.

6.4.3 Concern has been raised in relation to the footpath that partly extends along the rear boundary of the SINC, this has been added to enable a suitable pedestrian crossing point and is considered to be necessary for permeability throughout the site and in the interests of highway safety, the path is outside of the SINC and its buffer therefore is not considered to be unacceptable and has not warranted an objection from the ecologist. On balance it is considered that the path is necessary and would not result in any unacceptable impact upon the ecological value of the SINC.

6.4.4 Concern has been raised due to the loss of the hedgerow on the eastern boundary of the site, this hedgerow has been severely damaged during the construction of the adjacent parcel of land. It has therefore been agreed that it is better for the houses along this section to front the road to create a more active frontage opposed to the hedge being replanted in this location. Instead, hedgerow planting has been incorporated throughout the site to compensate for this loss. The existing hedgerow on the southern boundary is only partly within the application site therefore is not fully within the control of the applicant, this hedgerow is to be retained and will form part of the rear garden areas of the houses along the southern boundary of the site. When this land is transferred into private ownership there will be no mechanism for this hedge to be retained, therefore instead the applicants have sought to mitigate for any potential loss. The Ecologist has confirmed that the proposed mitigation is suitable to compensate/mitigate for the loss to the hedgerow.

6.4.5 There is a structure on site described as a garage within the surveys submitted in support of the outline consent that was associated with the now demolished Rockfield Farmhouse. The surveys at the time found presence of a bat in the structure, a condition was attached to the outline consent (condition 18) requiring additional survey works to be undertaken prior to the demolition of the garage which would inform the mitigation required. The conditions of the outline are still relevant and therefore this issue has been considered previously and has been dealt with. The applicants have indicated a proposed area for bat mitigation on the plans within the buffer zone for the SINC.

## 6.5 Landscape

6.5.1 A detailed landscaping scheme has been submitted which has been informed by the approved strategic landscaping scheme for the whole site. The detailed landscaping scheme includes hedgerow planting, tree planting within open spaces and incidental open spaces and along the route of the proposed PROW.

6.5.2 This landscaping scheme is in general compliance with this strategic scheme, however some additional areas of vegetation clearance have been identified particularly along The Elms where the existing hedgerow needed to be removed to accommodate the development. Whilst the Council's Landscape Officer has maintained a provisional holding objection the points raised are considered to be relatively minor. Numerous consultations have been undertaken as part of this development with the scheme being amended to address points raised by the Landscape Officer. Not all of the Landscape Officer's requests have been able to be accommodated as part of this scheme however on balance it is considered that the current scheme is acceptable and would not warrant the refusal of this application.

6.5.3 In response to the Landscape Officer's comments, the red line boundary referred to along The Elms is for the extent of the highway verge, the total allocated area and extent of the outline consent covers a much larger area including the previously developed phase on the adjacent sections of land. In response to the comments relating to landscaping along The Elms, this is restricted at present as this area forms part of the highway verge and is proposed as a means of access only and at present and until the extinguishment is completed this area is not suitable for landscaping. The lack of landscaping along this section with the highway does maintain an open

character which is considered to be positive and allows the development to better integrate with its surroundings, this section of the site is proposed to be grassed therefore contributing to a positive visual impact.

6.5.4 The area referred to along the southern boundary is outside of the application site and therefore cannot be used for landscaping; the hedgerow is shown on the proposed plans to illustrate the situation on site but is outside of the application site.

6.5.5 Comments relating to the visibility splay and footpaths on the southern entrance have been considered by the Council's Highways Department and no objection has been received to this arrangement from a highway safety perspective. The general approach to this development has been to keep as much green space as possible and avoid over engineering the site where it is not necessary - for example providing footpaths that do not serve development. It is considered that additional unnecessary footpaths would detract from areas of open space and not accord with the aims and objectives of the place-making charter, this will be covered in greater details in a later section of this report.

6.5.6 The proposed bench seating areas on the public open space have been provided in response to earlier comments relating to the areas having a dual purpose opposed to them being used solely for SUDs/biodiversity. The additional comments received in the latest request for additional works is not considered to be necessary; these areas are proposed to be informal spaces for use which the developer has agreed to include as part of the submission, however there is no requirement to do so.

6.5.7 The position, extent and height of the gabion walls is required due to the topography of the land. It is not considered that the gabion walls with fences above would have any unacceptable visual impact, nor would it be unacceptable to the living conditions of future occupiers. When building such a development on a slope there will be an inevitable impact in terms of level change and treatment. These gabions are required from an engineering perspective in order to deliver the development.

6.5.8 The Landscape Officer has noted a reduction in the number of planted trees on the site but the reduction is considered to be minor and is in response to amendments to the footpaths being extended around corners to allow safe areas for pedestrians to cross. The hedgerows have been amended to be native species and therefore on balance this is considered to be acceptable.

## 6.6 Impact on Amenity

6.6.1 The development of the site for residential purposes in comparison to the existing use and arrangement will inevitably have an impact on the residential amenity of those living closest to the site. However, based on the layout and hard and soft landscaping plans submitted, in association with the orientation of the site relative to the adjacent residential developments, the development is considered acceptable having regard to impact on existing neighbours. Distances between the rear of existing and proposed houses would be sufficient so as not to unacceptably impact on privacy, light nor be significantly overbearing. It is however considered necessary to restrict permitted development rights to ensure that any future developments/alterations to dwellings do not result in any unacceptable impact upon the living conditions of neighbouring occupiers.

6.6.2 With regards to the amenity of future residents the plans detail that each dwelling would benefit from an area of private enclosed amenity space and would have easy access to the areas of open space that run through the development linking it with the wider area. Provision for recreation facilities was achieved via the S106 agreement attached to the outline consent.

## 6.7 Highways

6.7.1 The Local Highway Authority have been consulted on this application and have objected raising the following points (each point will be addressed in turn).

1. Extent of public highway outside plot 64 - As previously stated there is a significant swathe of public highway between the footway and front of the dwelling and at this location it is more likely that the public highway will in the future be incorporated within the plot boundary. To include the area within the respective plot the applicant may formally apply for an extinguishment of the public highway, however there does not appear to be any reference within the revised submission which makes reference to this. It is therefore recommended that a supplementary layout be submitted which takes account of changes to the plot in the event the extinguishment of the public highway is not achieved.

The process for an extinguishment of the public highway that runs along the plots on Silurian Road/The Elms has begun and the Local Highways Authority have confirmed that they have no objection to this section of the highway being extinguished. This can be a lengthy process and one that falls outside the remit of the Town and Country Planning Act. Given that this process has commenced and that there is no objection from the Highways, it is not considered necessary for an amended layout to be submitted. Should the extinguishment fail then the applicant can apply to the Local Planning Authority for a minor amendment to the approved layout. Additionally, it is considered necessary to restrict permitted development (PD) rights on all plots throughout the development in relation to walls/gates/enclosures to ensure that there is no adverse impact upon the amenity/open character of the development. This will assist in ensuring there is no unacceptable impact upon the highway network should an extinguishment fail.

2. Unusual arrangement to have a rear parking court for only two units. There are concerns that this will not be used, and parking will occur at the front of property on the main access road for direct access to units.

Rear parking is proposed for plots 101-106, these are flats on the northern section of the site (not for just two dwellings). It is considered to be acceptable for parking provision to be located at the rear of the building for the residents of the flats. The location of the parking area to the rear ensures the hard surfaced parking area is less visually prominent and allows for a more active frontage from the building(s) which better contributes to a more distinguished sense of place. Additionally, if the flats were located to be set back from the road with the parking area to the front the impact upon the occupiers of plots 118-120 to the rear would be much greater, especially as the flats are 3-storey. It is considered that should on street parking occur to the front of the building and cause an obstruction the Council has sufficient powers to provide parking restrictions in this area.

3. Clear highway connection to adjacent development site required. This is a significant requirement to ensure connectivity to neighbouring sites as per the overall master plan.

The proposed plan has been amended showing the access road up to the site boundary and therefore this point is considered to be satisfied.

4. Footway required on southern side of access road as per main access road on southern parcel. Footways on both side of the carriageway were shown on the approved site master plan as below.

Footpaths on both side of the road are not considered to be necessary in this location as there is no development to the south of the road. It is not considered that there are sufficient grounds to insist upon a foot path being constructed on this section as: it would not serve any development, it would form an incursion into the buffer zone for the SINC and would increase costs on site, reducing overall viability. It is noted that there are footpaths shown on both sides of the highway on the masterplan however this plan is indicative only and no argument has been made that the footpath is needed for highway/pedestrian safety. The footpath does extend around the corner on the junction where the proposed access road meets Silurian Road/The Elms to ensure there is a safe point for pedestrians to cross.

Additionally, Monmouthshire Council are a signatory of the Place Making Charter, which lists (page 70) "Adoption of highways with pavements on one side only" under the "Key factors contributing to good place making". Therefore, the proposed layout is considered to positively contribute towards the place making objectives as supported by the Council.

5. Car parking has been removed from this area however a continuous footway is required as per the overall site masterplan.

This point is much the same as point 4, the original plan as shown on the approved documents of the outline consent is not binding and provides an indicative layout with full details to be agreed at RM stage therefore we are not bound by the details contained within the earlier application. To provide a footpath here which would not serve any development or properties, is not considered to be necessary, again it would erode the buffer zone for the SINC, reduce the amount of green infrastructure on site and result in the applicant incurring more costs reducing the viability of the scheme.

6. A 2m footway required connecting to central footway link through open space and 7. Minimum 1x 2m footway required linking to open space

The development has been designed with a road hierarchy which provides access points from Silurian Road/The Elms and then a primary road that loops through the development, the secondary roads have been designed to be clearly distinguishable from the main road as shared spaces/private drives. Such spaces can contribute towards a sense of place by softening the built form of the highway. Additionally, to insist upon a continuous footpath would significantly reduce the amount of GI on site and impact upon the sustainable urban drainage system.

Monmouthshire Council are a signatory of the Place Making Charter which has 6 key concepts, one of which is "Public Realm; Streets and public spaces are well defined, welcoming, safe and inclusive with a distinct identity. They are designed to be robust and adaptable with landscape, green infrastructure and sustainable drainage well integrated. They are well connected to existing places and promote opportunities for social interaction and a range of activities for all people". Page 70 of the charter lists, "Adopting narrow shared surface streets" within the "Key factors contributing to good place making" section. Therefore, it is considered that a greater emphasis should be put onto the place making objectives and drainage/biodiversity interests.

8. Footway links from private drives link to adoptable link footway/open space area. It should be noted that such links are likely to encourage wider public to access open space area over private land.

This is a note from Highways, not an objection in its own right, the site has been designed to encourage active travel and for maximum pedestrian permeability. It has been discussed with the applicants who have agreed to ensure there is a clause relating to a right of access over this land within the conveyancing documents on the impacted plots. The presence of the footpaths is designed to encourage active travel and it is not considered that there is justification for these to be removed.

9. The submitted car parking schedule has been assessed in accordance with the Monmouthshire Car Parking Standards and a shortfall in parking has been identified at a number of proposed plots. An extract from the parking schedule and plans are shown below. It should be ensured that the identified plots have the appropriate car parking provision in accordance with the MCC Parking Standards.

The MCC Parking Standards were adopted in 2013 and have been superseded by both PPW11 and Future Wales (FW) both of which promote lower levels of car parking and advocate a shift from car led developments. In this case the majority of plots meet the required level of parking provision in accordance with the MCC standards however some plots have one less parking space than the standards require; all plots where the parking provision falls below the amount required by the parking standards are proposed with on plot cycle storage to encourage active travel.

A large number of the plots where the parking provision does not meet the requirements of the standards are 3-bedroom properties with a small bedroom/box room which, in the current climate is likely to be used as an office as recent figures show that up to 50% of people are continuing to

work at home for at least part of the week, therefore providing further justification for a relaxation to the standards which were adopted pre-COVID19.

6.7.2 Below are the extracts from PPW and Future Wales which relate specifically to lower levels of car parking;

4.1.50 "Parking provision should be informed by the local context, including public transport accessibility, urban design principles and the objective of reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport. Planning authorities must support schemes which keep parking levels down, especially off-street parking, when well designed".

4.1.52 "Parking standards should be applied flexibly and allow for the provision of lower levels of parking and the creation of high quality places".

#### Future Wales

Policy 12 page 83 "Planning authorities must act to reduce levels of car parking in urban areas, including supporting car free developments in accessible locations and developments with car parking spaces that allow them to be converted to other uses over time".

Policy 12 Page 86 "Planning authorities should also challenge perceptions that housing needs to be built with parking on plots, which promotes car-dominated developments, and promote different ways of dealing with cars that encourage a reduction in car use and increase active travel and use of public transport".

No objection is raised in relation to capacity of the road network or to the overall layout of the site from a highway safety perspective. The points raised by Highways have been considered but on balance additional weight has been attributed to other factors, policies and objectives as explained in the rebuttal to each point above.

Welsh Government's M4 Route Engineer has been consulted on this application and raises no objection. The response has reiterated the conditions suggested and attached to the outline planning consent, as these are still relevant it would not be necessary to reattach the same conditions to this RM application.

#### 6.8 Affordable Housing

6.81 When applying the affordable housing policy to this application there is a requirement for 25% of new dwellings to be affordable. The proposal included 32 new affordable homes which exceeds the 25% minimum. The affordable properties are proposed as the following; 15 No. 2P1B Flats, 9 No. 4P2B Houses, 5 No. 5P3B Houses, 1 No. 6P4B Houses and 2 No. 3P2B Bungalows. The proposed mix reflects the need in the area therefore no concern is raised in this respect.

#### 6.9 Flooding

6.9.1 The application site is located within Zone A on the Development Advice Maps that accompany the current TAN15 and is in Zone 1 for flood risk from rivers and the sea on the Flood Maps for Planning that accompany the emerging TAN 15, both zones are acceptable in terms of highly vulnerable/residential development. There is a small area of the site that is shown to be at risk from surface water flooding on the Flood Maps for Planning, the emerging TAN advises that, "12.7 - Natural Resources Wales can advise the planning authority on the risk of flooding from rivers and the sea to the proposed development and elsewhere based on the evidence presented in the Flood Consequences Assessment. The planning authority should also seek advice from the relevant Lead Local Flood Authority (LLFA) on the risk from surface water flooding and other local sources of flooding, including ordinary watercourses. This should enable the planning authority to arrive at a judgement on the acceptability of the flooding consequences". In this instance an FCA has been submitted with this application and has been assessed by the LLFA who raise no objection to the proposed development. A Sustainable Urban Drainage Scheme has been submitted for this site to adequately manage surface water drainage.



## 6.10 Drainage

6.10.1 The Lead Local Flood Authority (LLFA) have been consulted on this application and raise no objection in regard to the minor area of the site at risk from ground water flooding. Due to the surface area of the development site a SUDs consent is required this is a separate consent that is outside the remit of the Town and Country Planning Act. The applicants have engaged with the SUDs pre-application service and a full application has been submitted for consideration. The Council's drainage officer has advised that there is no objection to this application progressing for planning consent as they are confident that SAB approval is achievable on this site with this proposed layout.

## 6.11 Public Right of Way

6.11.1 A public right of way (PROW) runs through the site and the current route would severely restrict development on site therefore a realignment is proposed. The PROW has been considered as part of the design and layout of the site in an attempt to integrate it into the development as a key pedestrian route/feature that links the open space with a central pedestrian avenue that travels past a large TPO tree at the centre of the development. The houses that face the PROW and the boundary treatments have been designed with a natural palette of materials in order to contribute to a sense of place. The Council's PROW officer has been consulted on this application and has no concern in relation to the proposed route. The process to realign the PROW has not yet commenced as planning permission is sought initially to ensure the layout as proposed is acceptable.

## 6.12 Noise

6.12.1 Technical Advice Note (TAN) 11: Noise (1997) sets out the Welsh Government's guidance on how the planning system can be used to minimise the adverse impact of noise without placing unreasonable restrictions on development. The TAN sets out four noise exposure categories (NECs) that sites may fall in, taking account of both day and night time noise levels.

6.12.2 A noise survey was carried out at the outline planning stage, WSP/Parsons Brinkerhoff report 70018501-001 dated July 2016 with an addendum dated January 2017. Noise survey results as part of these previous reports have been used as a basis for predicting noise levels at the proposed dwellings and assessing noise mitigation requirements. A Noise Assessment (dated 6th September 2018) has been submitted as part of the current application. The report takes into consideration potential increases in road traffic following the abolition of the Tolls (December 2018), and of the proposed future M4 relief road scheme. As part of the 2016 application the Council's Environmental Health Officer indicated that the positioning of residential areas in NEC C would be acceptable in principle, provided appropriate façade noise mitigation is devised at design stage to ensure internal noise levels comply with recommendations in BS 8233:2014 (35dB LAeq internal daytime and 30dB LAeq internal at night).

6.12.3 The noise assessment submitted concludes that, "Based on outline planning noise survey (WSP/Parsons Brinkerhoff) - confirming road traffic noise levels across the site - road traffic noise levels have been modelled across the proposed development site for daytime and night-time periods. Predicted noise levels have been assessed against daytime and night-time noise criteria quoted in current planning guidance. Road traffic noise levels are indicated to fall under NEC B across the majority of the site. Standard thermal double glazing and trickle ventilation is indicated sufficient to control road traffic noise intrusion for NEC B.

Based on the noise surveys submitted it is considered that noise levels on site can be managed to an acceptable level and would not have any unacceptable adverse impact upon the living conditions of neighbouring occupiers. The proposed development is considered to comply with the requirements of LDP Policies DES1, EP1 and EP3.

## 6.14 Response to the Representations of Third Parties and the local Town Council

6.14.1 Magor and Undy Town Council have recommended that the application be refused with the following points summarising their rationale:

Sustainable drainage, SuDS, surface water and sewage, future of footpath 372/23/1, lack of information in respect of a green infrastructure management plan and lack of open space, no up-to-date biodiversity/ecological/hibernacula report, light, noise and air pollution, access to site during and after development works from/to the B4245, lack of information regarding capacity for schools, doctors, dentist, burials and retail.

6.14.2 Response: A SuDS application is required for this development due to its scale; the applicants have engaged with the SAB authority and designed a scheme that has been acceptable to gain SAB consent; this is sufficient to deal with surface water on site and therefore should not have any unacceptable adverse impact regarding surface water off site.

DCWW have been consulted on this application and raise no objection to the proposed development and raise no concern over the capacity of the sewer in this area. The PROW will need to be realigned, this is a separate process that the applicant will need to engage in, there is no requirement for them to do this prior to planning consent being granted, such applications are often submitted following consent being granted to ensure the work/process would not be abortive. The biodiversity/GI management information has been resubmitted and deemed acceptable by the Council's Ecologist and Landscape/GI Officer. Concerns relating to access to and from the site were addressed in the outline planning consent and is therefore not a matter of consideration for this application. The principle of the development has been previously decided and considered acceptable when the outline planning consent was granted.

6.14.3 Response to issues raised in the public consultation.

The principle of the development has previously been established with this land forming part of a strategic allocation for residential development as part of the LDP and with outline planning consent being granted. Issues such as access, traffic flow and impact upon the services in the settlement were covered within the previous outline allocation and are therefore not pertinent to this application. This consent is considered to comply with the requirements of both the original allocation and with the outline consent, the proposed development is considered to make efficient use of the land available whilst avoiding an over-development of the site. The scheme provides sufficient areas of open space and links well to the wider area. Whilst the development will result in a loss of greenfield land this decision has previously been made. Therefore the requirement on this application is to provide mitigation which is proposed via the scheme and can be controlled via conditions. It is noted that the development will result in disruption whilst the build is ongoing, but this is to be expected with any level of development. Controls are available to the Council to ensure this will not be of an unacceptable level. Concern has been raised relating to the impact upon neighbouring residents but this has been taken into consideration and is not considered to be of an unacceptable level due to the scale of the development and its relationship with neighbouring properties. Comments have been received raising concern over the loss of a view and impact upon neighbouring property values. While there is no right to a view, outlook is a material consideration which is considered to be acceptable in this instance. Property values are not a material consideration in the assessment of a planning application. Comments have been received regarding the impact upon the character of the area. This residential development on an allocated site with outline consent for residential development is not considered to be unacceptable in this regard. A general dislike for flats being provided on site has been communicated. Flats are residential properties which are considered to be appropriate within a residential development and will make efficient use of the land providing much needed housing. The flats are proposed at 3-storeys and this is not considered to be excessive for this location or to have any unacceptable adverse visual impact upon the wider landscape. A comment has been received stating that the houses are too expensive for locals to buy; the planning authority does not control the price of the houses. The viability of the site has allowed for affordable housing on site to exceed the minimum 25% as set out in the S106 agreement that accompanied the outline consent. One comment received raised issue with the plans not accurately depicting the built form of neighbouring dwellings in that one property had recently constructed a conservatory; this would not impact upon the overall decision or result in amendments being required.

## 6.15 Conclusion

It is considered that this proposal complies with both the strategic allocation with the LDP and the subsequent outline planning permission. It is considered that the proposal represents a well-thought out, high quality development which will positively contribute to the area. Notwithstanding the Highway Officer's reservations about aspects of the proposal, it is considered that a refusal on that basis would be difficult to sustain because Highways' objection is not made on the basis of highway safety and the requested amendments conflicts with more recent National Planning policies and place-making objectives. It is therefore recommended that this reserved matters application be granted subject to the conditions set out below. The conditions relating to the outline planning permission and the requirements of the Section 106 Agreement also remain in force and relevant.

## **7.0 RECOMMENDATION: APPROVE**

### **Conditions:**

1 The development shall be carried out in accordance with the list of approved plans set out in the table below.

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

2 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (Or any order revoking and re-enacting that Order with or without modification, no fences, gates or walls, shall be erected other than those expressly authorised by this permission.

REASON: To protect the character and appearance of the proposed development.

3 Notwithstanding the provisions of Schedule 2, Part 1, Class A (sections (h) and (j), B, C and D of The Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking or re-enacting that order with or without modification, no extensions with more than one storey, roof enlargement or alterations and porches shall be erected.

REASON: To protect the character and appearance of the proposed development and the living conditions of neighbouring occupiers.

4 Prior to the installation of any street furniture full details 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

REASON: In the interest of visual amenity

5 Prior to beneficial occupation of the dwellings, visibility splays of 2.4 x 43M as demonstrated on the approved plans in both directions from the centreline of the access shall be provided from all adoptable side roads and private access and shall be maintained in perpetuity. Any wall/fence within the visibility splays must not exceed 0.9 metres in height above the existing carriageway level and any planting within the visibility splay must not exceed 0.6 metres above the existing carriageway level.

Reason: in the interest of highway safety.

6 Notwithstanding the details of the approved plans, prior to any works taking place above slab level of each dwelling unit, samples of the proposed external finishes shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with those agreed finishes which shall remain as such thereafter unless otherwise approved in writing by the Local Planning Authority. The samples shall be presented on site for the agreement of the Local Planning Authority and those approved shall be retained on site for the duration of the construction works.

REASON: In the interests of the visual amenity of the application site and wider area, in accordance with policy DES1 of the LDP.

7 Noise mitigation measures in the form of building façade constructions and ventilation provisions to the habitable rooms of the scheme shall meet the requirements provided in Environmental Noise Assessment REF: 4833/EBF1\_REV2 6 the September 2018 and shall be retained as such in perpetuity. Compliance of such works shall be certified in writing to the Planning Authority by an appropriately qualified acoustic consultant before the first beneficial use of any dwelling commences.

REASON: In the interests of the residential amenity of future occupants of the site, in accordance with the requirements of policy EP1 of the LDP.

8 Prior to any works commencing on the areas the subject of this application, a Construction Management Plan (CMP) in each reserved matters area shall be submitted to and approved in writing by the Local Planning Authority, which shall include traffic management measures, hours of working, measure to control dust, noise and related nuisances and measures to protect adjoining users from construction works. The development shall be carried out in accordance with the approved CMP.

Reason: To ensure the development is carried out in a safe and considerable manner in accordance with the requirements of policy EP1, and DES1 of the LDP.

9 The garages hereby approved shall be retained solely for the parking of private motor vehicles and for no other purpose including any other purpose ancillary to the enjoyment of the dwelling house.

REASON: To ensure there is adequate parking provision to serve the occupiers of the development in accordance with policy MV1 of the LDP.

10 Prior to the construction of the realigned Public Right of Way, samples of the proposed path material shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed finish which shall remain as such thereafter unless otherwise approved in writing by the Local Planning Authority. The samples shall be presented on site for the agreement of the Local Planning Authority and those approved shall be retained on site for the duration of the construction works.

REASON: In the interests of the visual amenity of the application site and wider area, in accordance with policy DES1 of the LDP.

11 Prior to the commencement of development full details of the gabion walls will be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed finish which shall remain as such thereafter unless otherwise approved in writing by the Local Planning Authority.

Reason: in the interest of visual amenity in accordance with Policy DES1 of the LDP.

12 The development shall be carried out in strict accordance with Section 6 (Recommendations and Enhancement) of the approved 'Rockfield Farm, Undy – Construction Environmental Management Plan: Biodiversity, by Soltys Brewster, dated April 2022' report. Evidence of compliance with the plans in the form of georeferenced photographs must be provided to the LPA no more than three months later than the first beneficial use of the extension.

Reason: To ensure safeguards for species of principle importance for conservation and to ensure compliance with LDP policy NE1.

13 Prior to the commencement of works, details of Biodiversity net benefit and enhancement measures must be submitted on plan, identifying location, positioning and specification which provides net benefit. The scheme shall provide for the future management and an implementation timetable. The scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall only proceed in accordance with the approved plans and shall be retained as such thereafter.

Reason: To provide biodiversity net benefit and ensure compliance with PPW 10, the Environment (Wales) Act 2016 and LDP policy NE1

## **INFORMATIVES**

1 Bats - Please note that Bats are protected under The Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended). This protection includes bats and places used as bat roosts, whether a bat is present at the time or not. If bats are found during the course of works, all works must cease and Natural Resources Wales contacted immediately (0300 065 3000).

2 Nesting birds - Please note that all birds are protected by the Wildlife and Countryside Act 1981 (as amended). The protection also covers their nests and eggs. To avoid breaking the law, do not carry out work on trees, hedgerows or buildings where birds are nesting. The nesting season for most bird species is between March and September.

3 The Naming & Numbering of streets and properties in Monmouthshire is controlled by Monmouthshire County Council under the Public Health Act 1925 - Sections 17 to 19, the purpose of which is to ensure that any new or converted properties are allocated names or numbers logically and in a consistent manner. To register a new or converted property please view Monmouthshire Street Naming and Numbering Policy and complete the application form which can be viewed on the Street Naming & Numbering page at [www.monmouthshire.gov.uk](http://www.monmouthshire.gov.uk) This facilitates a registered address with the Royal Mail and effective service delivery from both Public and Private Sector bodies and in particular ensures that Emergency Services are able to locate any address to which they may be summoned. It cannot be guaranteed that the name you specify in the planning application documents for the address of the site will be the name that would be formally agreed by the Council's Street Naming and Numbering Officer because it could conflict with the name of a property within the locality of the site that is already in use.

4 The proposed scheme will require a sustainable drainage system designed in accordance with the attached Welsh Government Standards for sustainable drainage. The scheme will require approval by the SuDS Approving Body (SAB) prior to any construction work commencing. Details and application forms can be found at: <https://www.monmouthshire.gov.uk/sab>

5 Bat boxes are more likely to be used if they are located where bats are known to feed. Ideally, several boxes should be put up facing in different directions on sunny aspects to provide a range of warm conditions. Boxes should be put as high as possible to try and avoid predation from cats on the ground or nearby structures. Bats use dark tree lines or hedgerows for navigation, so putting boxes near these features could help bats find the box. In summary, locate boxes:

- Where bats are known to feed and navigate (close to hedges and tree lines);
- Ideally at least 4m above the ground (where safe installation is possible);
- Away from artificial light sources (to protect them from predation); and
- Sheltered from strong winds and exposed to the sun for part of the day (usually south, south-east or southwest).

Bats need time to find and explore new homes, and it may be several months or even years before boxes have residents – be patient! Once bats find a place they want to live they can return over and over again. Droppings on the landing area, urine stains around the lower parts of the box and chattering noises from inside on warm afternoons and evenings are signs of occupation. Please note, as bats are vulnerable to disturbance and fully protected under UK law, boxes must only be opened by a licensed bat worker.

6 Boxes for tits, sparrows or starlings should be fixed two to four metres up a tree or a wall. -Unless there are trees or buildings which shade the box during the day, face the box between north and east, thus avoiding strong sunlight and the wettest winds. Make sure that the birds have a clear flight path to the nest without any clutter directly in front of the entrance. Tilt the box forward slightly so that any driving rain will hit the roof and bounce clear. Fixing your nestbox with nails may damage the tree. It is better to attach it either with a nylon bolt or with wire around the trunk or branch. Use a piece of hose or section of car tyre around the wire to prevent damage to the tree. Remember that trees grow in girth as well as height, and check the fixing every two or three years. Open-fronted boxes for robins and wrens need to be low down, below 2m, well hidden in vegetation. Those for spotted flycatchers need to be 2-4m high, sheltered by vegetation but with a clear outlook. Woodpecker boxes need to be 3-5m high on a tree trunk with a clear flight path

and away from disturbance. Nestboxes are best put up during the autumn. Many birds will enter nestboxes during the autumn and winter, looking for a suitable place to roost or perhaps to feed. They often use the same boxes for nesting the following spring. Tits will not seriously investigate nesting sites until February or March.

**Application Number:** DM/2021/02005

**Proposal:** Revision of Allowed Appeal APP/E6840/A/17/3168486 to create an additional pitch (7 to 8) with modifications to layout, design and ecological enhancements

**Address:** Land Adjacent To Upper Maerdy Farm, Red Hill To The B4235, Llangeview Monmouthshire

**Applicant:** Mr Tom Lee

**Plans:** Elevations - Proposed 04 - A, Floor Plans - Proposed 05 - A, Elevations - Proposed 06 - A, All Drawings/Plans 07 - A, All Drawings/Plans 08 - B, All Drawings/Plans 09 - A, All Drawings/Plans 10 - A, All Drawings/Plans 11 - A, All Drawings/Plans 12 - A, Site Plan 02 - D, Floor Plans - Proposed 03 - A, Location Plan 01 - F, Other PLANNING STATEMENT

## **RECOMMENDATION: APPROVE**

Case Officer: Ms Kate Young  
Date Valid: 16.12.2021

**This application is presented to Planning Committee due to there being five or more unresolved objections**

## **1.0 APPLICATION DETAILS**

### 1.1 Site Description

The application site forms part of a long and irregular shaped parcel of land located immediately adjacent to the southbound slip road of the Usk interchange (A472) on the A449 trunk road. The wider site comprises approximately 0.9 hectares and is surrounded by mature hedgerows. The site is accessed via an existing vehicular entrance at the southern end of the site. The site widens out towards the northern end close to A449.

In 2011 planning permission was granted on appeal for the use of the site as a permanent base for an extended Romany Gypsy family. This provided for two pitches near the entrance to the site. A further appeal was granted for another five pitches on the northern end of the site on 2017 that included a long access road through the site and individual septic tanks for each plot. Part of the site has now been developed, with one caravan close to the entrance. Several of the day rooms to the north have been erected and are now occupied. There are several caravans parked on the site.

The site is in open countryside outside any settlement boundary. It is designated as a Phosphorus Sensitive Area for the River Usk catchment.

### 1.2 Value Added

The site plan has been amended to show all of the existing buildings. The proposed replacement PTP has been replaced by a proposed septic tank.

### 1.3 Proposal Description

The application seeks the provision of an additional plot in the northern field. The number of plots on the site will increase from the permitted seven to eight. The layout to the site would be altered to significantly increase the size of the utility buildings on Plots 1, 2, 4, 5 and 6, outside toilet rooms on Plots 5 and 6 and a small store on Plot 1. The additional plot would contain a day room with an

internal floor area of 9.1 metres by 5.7 metres. The day rooms would be 3.7 metres in height to the ridge and would be finished in render with brick detailing and a slate roof. The plot would also contain a static caravan and space to park a touring caravan. The plot at the southern end of the site, adjacent to the entrance to the site would replace its existing utility room with one measuring 9.5 metres by 6 metres.

Surface water from the caravan and day/utility room will drain to soakaways and foul water from both the caravan and day/utility room will be drained into a sealed septic tank, like all the other plots on the site. The proposal does not involve alterations to the vehicular access into the site but the existing gate at the entrance into the site would be replaced with a 4.2 metre wide 5 bar agricultural timber gate. There would be no other alterations to the boundary treatments.

## 2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
DM/2018/00959	Discharge of conditions 4,5,6,7,8,12 and 14, - change of use of land to private gypsy caravan site consisting of 7 no. residential caravan and associated development - original application DC/2015/01424 and appeal 3168486	Split Decision	02.05.2019
DM/2019/01223	Variation of condition no. 6 of application (DC/2015/01424) to seek an amendment to the orientation and scale of one of the authorised day/utility rooms located towards the centre of the site. Also details for the safeguarding of the water main and details of the foul and surface water	Approved	28.02.2020
DM/2020/00623	Removal of condition number(s): 5, 6 and 12 relating to application DC/2015/01424.	Approved	04.11.2020
DM/2021/02005	Revision of Allowed Appeal APP/E6840/A/17/3168486 to create an additional pitch (7 to 8) with modifications to layout, design and ecological enhancements.	Pending Determination	
DC/2015/01424	The change of use of land to a private gypsy caravan site consisting of 7 no residential caravans and associated development.	Refused	02.11.2016



### **3.0 LOCAL DEVELOPMENT PLAN POLICIES**

#### **Strategic Policies**

S1 LDP The Spatial Distribution of New Housing Provision  
S2 LDP Housing Provision  
S13 LDP Landscape, Green Infrastructure and the Natural Environment  
S16 LDP Transport  
S17 LDP Place Making and Design

#### **Development Management Policies**

H8 LDP Gypsy, Traveller and Travelling Showpeople Sites  
SD4 LDP Sustainable Drainage  
LC1 LDP New Built Development in the Open Countryside  
LC5 LDP Protection and Enhancement of Landscape Character  
NE1 LDP Nature Conservation and Development  
EP1 LDP Amenity and Environmental Protection  
MV1 LDP Proposed Developments and Highway Considerations  
DES1 LDP General Design Considerations

#### **Supplementary Planning Guidance**

Monmouthshire Parking Standards (January 2013)

<http://www.monmouthshire.gov.uk/app/uploads/2015/07/Mon-CC-Parking-Standards-SPG-Jan-2013.pdf>

#### National Planning Policies

Gypsy and Travellers Circular 005/2018 published in June 2018

The Gypsy and Traveller Accommodation Assessment

Designing Gypsy and Traveller Sites Welsh Government May 2015

<https://gov.wales/sites/default/files/publications/2019-03/designing-gypsy-and-traveller-sites.pdf>

### **4.0 NATIONAL PLANNING POLICY**

#### **Future Wales - the national plan 2040**

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales - the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

#### **Planning Policy Wales (PPW) Edition 11**

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant

duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

## **5.0 REPRESENTATIONS**

### 5.1 Consultation Replies

**Llantrisant Fawr Community Council** – Objects - this is development by stealth.

**MCC Highways** - No objection.

The site is well established, and the highway authority offers no objection to the additional pitch; the increase in traffic movements associated with the additional pitch would not be detrimental to the safety and capacity of the local highway network

**NRW** - queries why there was a consultation this time but not on the previous application (In PSA but now proposing sealed septic tanks).

**NATS** - No objection

The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

**LLFA/SAB Officer** - No Objection; further surface water destination information should be requested, conditions requested.

**MCC Housing** – query whether the applicants are on the register.  
I have asked Steve Griffiths to confirm

### 5.2 Neighbour Notification

Letters of objection were received from six addresses:

Tree planting on neighbour's land

The hedgerow has been damaged and now there is a large gap in the hedge

Will lead to flooding on adjacent fields

Increase in traffic, damaging the roads and hedgerows

Foul drainage must not encroach onto adjoining farm land

The previous appeal only allowed for seven pitches on the site

Danger to pedestrians

The original planning application granted was for a very limited access and personal use by one family; this has already been greatly exceeded resulting in numbers of vehicles and buildings allowed, causing massive increase of heavy traffic

The light pollution from external lights on all night affects stock in the surrounding fields

Increase in noise and debris

Of the numerous permanent structures on site, some appear to be used as dwellings

Increased traffic has resulted in damage to verges and hedgerows

The site is very brightly lit at night with what appears to be industrial lighting

This is contrary to the conditions on the appeal decision that allowed only seven pitches.

### 5.3 Other Representations

Usk Civic Society appreciates that the development of this site is a work in progress.

Nevertheless the view from the southbound slip road to the A449 remains untidy. We believe that one extra plot, should the planning authority be minded to allow the application, would be the absolute maximum the site could accommodate. The greater the density, the greater the likelihood of an untidy appearance

## 5.4 Local Member Representations

None Received.

Please note all representations can be read in full on the Council's website:

<https://planningonline.monmouthshire.gov.uk/online-applications/?lang=EN>

## **6.0 EVALUATION**

### **6.1 Principle of Development**

6.1.1 By way of general background, a survey in March 2009 from the Equality and Human Rights Commission (EHRC) highlighted the urgent need to provide lasting solutions to the under-provision of Gypsy and Traveller accommodation. It notes that the majority of the 300,000 Gypsies and Travellers in the UK are conventionally housed; a further 17,900 caravans are recorded in England and Wales but about a quarter are not on authorised sites. Previously, local authorities had a duty to provide sites for Gypsies and Travellers but this was repealed in 1994, a situation which apparently led to a rise in unauthorised encampments. The requirements of the Housing Act 2014 and (in Wales) a Circular 005/18 Gypsy and Travellers, requires local authorities to undertake an initial assessment of needs followed by the selection of sites if that is required. The planning system is largely land-use based, but the consideration of Gypsy caravan sites requires a wider perspective to be taken - an approach reflected in appeal decisions and case law which has identified the need to maintain the lifestyle of a section of the community as a factor in decision making, along with the right to a proper education. The courts have held that a balancing exercise must be undertaken weighing the harm arising to the public interest against the rights and personal circumstances of the appellants, with the availability of accommodation provision also being a material consideration.

Circular 005/2018 Planning for Gypsy, Traveller and Show people Sites

Circular 005/2018 Planning for Gypsy, Traveller and Show people Sites provides updated guidance on the planning aspects of identifying sustainable sites for Gypsies and Travellers. It also outlines how planning authorities and Gypsies and Travellers can work together to achieve this aim. The Welsh Government seeks to ensure a wide choice of accommodation is available to meet the needs of all members of the community. It is reflective of the Government's commitment to ensure equality of opportunity for all sections of the community and in this instance, Gypsies and Travellers should have equal access to culturally appropriate accommodation as all other members of the community. Some Gypsies and Travellers may wish to find and buy their own sites to develop and manage. Delivering more Gypsy and Traveller sites, whether public or private, is an issue for local authorities to address, as they have to find local solutions for local needs. The Housing (Wales) Act 2014 places a legal duty upon local authorities to ensure that the accommodation needs of Gypsies and Travellers are properly assessed and that the identified need for pitches is met. Local authorities are required to exercise their powers under section 56 of the Mobile Homes (Wales) Act 2013, as far as necessary, to ensure Gypsy and Traveller sites are provided for the unmet need. In order to be able to properly assess the accommodation needs of Gypsies and Travellers, section 101 of the Housing (Wales) Act 2014 introduces a requirement for local authorities to carry out an assessment of the accommodation needs of Gypsies and Travellers residing in or resorting to its area.

Determining Planning Applications for Gypsy and Traveller Sites

Paragraphs 58 - 69 of Circular 005/2018 identify what criteria LPAs should address when determining applications for gypsy sites.

Determinations of applications for planning permission shall be made in accordance with the development plan unless material considerations indicate otherwise. Other considerations for Gypsy and Traveller site applications will usually include the impact on the surrounding area, the existing level of provision and need for sites which is evidenced as part of the Gypsy and Traveller Accommodation Assessment for the area. Personal permissions may be suitable in certain

circumstances and may be conditioned as such. In considering specific provisions for sites, regard should be had to the Welsh Government's guidance documents on Gypsies and Travellers - in particular, the Designing Gypsy and Traveller Sites in Wales document when considering site size, layout and facilities. Permission to develop Gypsy and Traveller sites outside of settlement boundaries could be granted subject to sustainability criteria set out in national planning policy if there are no realistic, suitable sites available within or adjacent to settlement boundaries to accommodate Gypsies and Travellers. Planning authorities should not refuse applications because the applicant has no local connection.

In identifying sites for Gypsy and Traveller caravans, the Circular advises local planning authorities to consider locations in or near existing settlement with access to local services such as schools, health services and shops (para 36). The Circular identifies the issue of site sustainability as being important for the health and well-being of Gypsies and Travellers in terms of environmental issues and for the maintenance /support of family and social networks. It advises that this should be considered not only in terms of transport mode, pedestrian access, safety and distances from services but that consideration should also be given to a range of other issues, including:

- Promotion of peaceful and integrated co-existence between the site and the local community;
- Wider benefits of easier access to GP and health services;
- Access to utilities;
- Children attending school on a regular basis.

The Circular provides further advice in relation to rural sites which is applicable to the proposed application. It advises that rural settings may be acceptable in principle subject to planning or other constraints where there is a lack of suitable sustainable locations within or adjacent to existing settlements. In assessing the suitability of rural sites it advises LPAs to be 'realistic about the availability, or likely availability, of alternatives to the car in accessing local services' (para 39). While it does not advise the over-rigid application of national and local policies that seek a reduction in car borne travel given that they could be used to effectively block proposals for gypsy/traveller sites in a rural location, site sustainability is a factor which should be taken into account.

Paragraph 40 of the Circular sets out other considerations, in addition to the development plan, which may be taken into account in the determination of planning applications for Gypsy/Traveller sites. These include 'the impact on the surrounding area, existing level of provision and need for sites in the area, availability of alternative accommodation for the applicants and their specific requirements'.

In this particular case the gypsy site is already established in this location and has been granted permission for a total of seven plots. This current application seeks an additional plot. There is sufficient land available within in the site to accommodate this additional plot. The applicant and his family are accepted as being gypsies and the additional plot is for the applicant's brother.

#### 6.1.2 Evidence of Need

Paragraph 114.2.35 of PPW states that "Local authorities are required to assess the accommodation needs of Gypsy and Traveller families and to allocate sites to meet the identified need. Where a Gypsy and Traveller Accommodation Assessment (GTAA) identifies an unmet need, a planning authority should allocate sufficient sites in their development plan to ensure that the identified pitch requirements for residential and/or transit use can be met."

The Approved Gypsy & Traveller Accommodation Assessment (GTAA) was agreed in May 2016 and covers the 5-year period 2016 - 2021 (the applicants for this site in Rogiet were not included in this GTAA as they were not resident in the County at that time). This concluded that Monmouthshire had an estimated unmet need for eight permanent residential pitches to 2021. An updated GTAA to cover the Plan period 2018 - 2033 of the emerging Replacement Local Development Plan (RLDP) has been prepared and submitted to Welsh Government for approval. This identifies a need for nine residential pitches between the period 2020 - 2025 and a further four pitches for the remaining Plan period of 2026 - 2033, giving a total need of thirteen pitches for the Plan period. A response from Welsh Government on the updated GTAA has not been received to date. The adopted LDP does not provide specific site allocations for gypsy and travellers and whilst the RLDP will identify sites to address the need identified in the updated GTAA, the Plan has not reached that stage in the plan preparation process. As such there are no alternative sites identified in the development plan.

In this case the applicant's brother is **... On the register...**

## **6.2 Sustainability**

The site is established and no additional land is required to accommodate the additional plot. The site is not in a highly sustainable location and occupiers of the additional plot would be largely dependent on a car to access facilities. The site is, however, close to the town of Usk where there are a good range of every-day services and in relative terms for the County the site is broadly sustainable.

## **6.3 Development Plan Policy**

Policy H8 of the LDP provided a framework against which proposals for Gypsy, Traveller and Travelling Showpeople sites will be assessed. In this case the site is already established and the question is whether the site could accommodate an additional unit. The site is of a suitable size to allow for the planned number of caravans, amenity blocks, access road and it does include sufficient space for the parking and safe circulation of all vehicles associated with occupiers within the site curtilage. The additional unit would not result in a significant increase in traffic movements and it would not result in traffic congestion in the local area. The additional unit proposed would not occupy a prominent location and its siting would be consistent with LDP policies for protecting and enhancing character and distinctiveness of the landscape and environment. The site is not in any flood zone identified in the TAN15 DAM maps. Therefore the principle of providing an additional plot on this site accords with the objectives of Policy H8 of the LDP. The site is of sufficient size to accommodate the required static caravan, touring caravan, day room and parking provision, all of which complies with the standards outlined in the Designing Gypsy and Traveller Sites in Wales document of the Welsh Government. The detailed design considerations of the application will be discussed in detail later in this report but it can be concluded that the site does not occupy a prominent location.

## **6.4 Good Design and Place Making**

As stated above the site is of sufficient size to accommodate the required facilities and those facilities meet the recognised standards. The additional structures on the site will all be single storey and will be partially screened behind existing vegetation. The static caravan will be of conventional design and the LPA has no control over its appearance; the same is also true for the touring caravan. The proposed day room which would measure 9.1 metres by 5.7 metres internally would be finished in painted render with a natural slate roof and would comply with the advice given in the Designing Gypsy and Traveller Sites published by WG, May 2015. The scale and finishing materials of the proposed day room match those of the other day rooms on the site and are considered appropriate in this rural location. The amount of development and its intensity is comparable with existing uses and would respect the form, scale, siting, massing and materials of its setting. The proposal additional unit would not impinge on any views or panoramas surrounding the site. The proposal accords broadly with the objectives of Policy DES1 of the LDP regarding general design considerations. Similarly the alterations to the other utility rooms on the site would not be visually prominent in the wider landscape. All of the units are single storey and less than four metres in height.

## **6.5 Landscape**

The site is already established and surrounded by mature hedgerows. The provision of an additional plot within the site will not have a significant impact on the wider landscape. In recent times a small area (approximately 5 metres) of mature hedge along the western boundary of the site collapsed due to its poor quality. The applicants have recently replanted this area of hedgerow. The provision of an additional plot towards the centre of the site will have no adverse impact on the wider landscape as it is screened from view by the dense vegetation around the site, including mature hedgerows and other buildings. The structures are only single-storey in height and located between existing buildings on the site. As such, they would not be visually prominent when viewed from outside the site. The proposal would not result in a visual intrusion or cause an

adverse change in the character of the natural landscape. The proposal therefore accords with both policies LC1 and LC5 which seek to protect landscape character.

## **6.6 Biodiversity**

The site is located within area of previously developed land and is an established gypsy and traveller site. The site does not lie within any specifically designated protected land. The development of an additional plot on land that has already been cleared and laid to gravel will not change the ecological composition and attributes of the site. PPW sets out that "planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity" (para 6.4.5 refers). This policy and subsequent policies in Chapter 6 of PPW 11 respond to the Section 6 Duty of the Environment (Wales) Act 2016. Enhancements to the approved proposed planting scheme are detailed on Drawing 02c which includes additional native tree planting along the periphery of the site, additional hedgerows between plots and bulb planting adjacent to the internal access road. In addition bat and bird boxes are being provided on the external elevations of the day room. The Biodiversity Enhancements have been included on the elevational drawings; these are commensurate with the scale of the proposal. This will ensure that the provisions of Policy NE1 of the LDP are met with regards to providing biodiversity enhancements.

## **6.7 Impact on Amenity**

The nearest property to the site is The Yews which is approximately 60 metres to the south east of the entrance to the site. The new day room for plot 8 is the closest structure to the Yews. Given that the proposal is to increase the size of an existing utility building and that the utility building would only be single storey it would not have a significant impact on residential amenity for the occupiers of The Yews, especially given the distance between the two and the intervening vegetation. There are four residential properties at Upper Maerdy Farm which are approximately 150 metres to the west of the site. The occupants of the properties of Upper Maerdy farm will not be directly affected by the proposed alterations to the gypsy site.

## **6.8 Highways**

The site is already established and the current application seeks the creation of an additional pitch, with modifications to the layout. The current development was allowed at appeal and the inspector considered highway safety and acknowledged that the delivery of caravans to the site would be a concern so that a specific planning condition requiring a Delivery and Construction Management Plan was required. The site is well established, and the Highway Authority offers no objection to the additional pitch. The Highway Authority say that the increase in traffic movements associated with the additional pitch would not be detrimental to the safety and capacity of the local highway network. The submitted plan indicates that sufficient car parking provision can be provided within the site. The proposal therefore accords with the objectives of Policy MV1 of the LDP.

## **6.9 Flooding**

Based on the Development Advice Maps associated with Technical Advice Note (TAN) 15: Development and Flood Risk the site is outside of any allocated flood zone and is therefore unlikely to flood. MCC's Flood Officer has no objection on flood risk grounds, however run off from the site should be managed to not increase the existing surface water flood risk. No permanent structures should be built within the identified Surface Water flood risk zones. The application is therefore considered compliant with the requirements of LDP policies S12, SD3 and criterion e) of Policy H8.

## **6.10 Drainage**

### **6.10.1 Foul Drainage**

It is proposed that the foul water from the new pitch will drain into a new bespoke septic tank. WG Circular 008/2018 refers to a foul water drainage hierarchy. When drawing up sewerage proposals

for any development, the first presumption must always be to provide a system of foul drainage discharging into a public sewer. This is not possible in this case as the area is not served by mains drains. The LPA is satisfied that a connection to a public sewer is not feasible. The next option would be for a package sewage treatment plant (PTP) to be considered, and only if it can be clearly demonstrated by the developer that a PTP is not feasible, taking into account cost and/or practicability, should a system incorporating septic tank(s) be considered. In this case all of the other plots on this site are served by individual septic tanks. The LPA considers that it would be unreasonable to insist on a PTP for this one plot when all the other plots are served by septic tanks, especially given that the site is located in a Phosphate Sensitive Area. Given the exceptional circumstances in this case the LPA considers that a sealed septic tank is acceptable. The septic tank like all the others on the site will be of sufficient size to accommodate the waste, will comply with the manufacturer's guidelines and will be emptied regularly.

Do we mean cesspits (i.e. a sealed unit)? Septic tanks have a soakaway and only semi-treat the waste run-off so not a good idea in a P sensitive area...

#### 6.10.2 Surface Water Drainage

Surface water from the caravans, utility room and toilet blocks will drain to soakaways. There would be no increase in hardstanding within the site. The SAB Officer offers no objection but requests evidence of a suitable surface water destination. The application has not demonstrated a means of surface water discharge (rainwater harvesting, infiltration, watercourse, surface water sewer or combined sewer). Without a suitable surface water destination the site may not be lawfully developable. A condition will be imposed requesting evidence of a suitable surface water destination.

The site will not be subject to SAB as the current proposal appears to cover only 70m<sup>2</sup>. The hardstanding across the site and other buildings would have been subject to SAB if the application was submitted post January 2019, but it is understood that the hardstanding was all approved by planning prior to the introduction of the SAB legislation.

#### **6.11 Phosphates**

Under the Conservation of Habitats and Species Regulations 2017 it is necessary to consider whether the development should be subject to a Habitat Regulations Assessment. This is in particular reference to the impact of increased concentrations of Phosphates on designated SAC's. NRW has set new phosphate standards for the riverine SACs of the Wye and Usk and their catchment areas. Development that may increase the concentration of phosphates levels will be subject to appropriate assessment and HRA. This application is in the River Usk SAC catchment but the foul water is discharging into a sealed septic tank, there will therefore be no runoff from it and so it will not have a detrimental impact on any protected SAC, and as a result no further assessment is required.

#### **6.12 Response to the Representations of Third Parties and/or Community/Town Council**

Llantrisant Community Council have objected to this application saying that it is development by stealth. While this application is seeking an additional plot and an increase to the size of the utility room(s), each application has to be determined on its own merits. In this case, officers consider that the additional plot and alterations are acceptable on policy grounds and will not result in any significant adverse impact on the wider area. The Usk Civic Society considers that one additional plot would be acceptable on the site but considers this would mean the site has reached its capacity.

Several of the neighbour letters received refer to additional tree planting on the neighbour's land; planning officers can confirm that there will be no new planting of trees or other vegetation on the land outside of the applicant's ownership. As was explained in the main body of the report, a small length of hedgerow on the western boundary of the site had in part died leaving the hedge to be thin in that location. Since then the applicants have replanted this area of hedgerow. The increase in traffic has been addressed above and the Highway Authority is satisfied that increase in traffic

movements associated with the additional pitch would not be detrimental to the safety and capacity of the local highway network. The proposed foul drainage will discharge to a sealed **septic tank** which will be emptied by truck; the maintenance of the **septic tank** will comply with the manufacture guidelines and there will be no outfall from the tank to the site or neighbouring land. The increase in light pollution and noise resulting from one additional plot in the centre of the site would be minimal and not so significant as to justify refusal.

### **6.13 Well-Being of Future Generations (Wales) Act 2015**

The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

### **6.14 Conclusion**

In this case the Gypsy and Traveller site is already established and has been granted permission for a total of seven plots with this current application seeking one additional plot. There is sufficient land available within in the site to accommodate this additional plot. The applicant and his family are accepted as being gypsies and the additional plot is for the applicant's brother. The principle of providing an additional plot on this site accords with the objectives of Policy H8 of the LDP. The scale and finishing materials of the proposed day room match those of the other day rooms on the site and are considered appropriate in this rural location. The amount of development and its intensity is comparable with existing uses and will respect the form, scale, siting, massing and materials of its setting. The proposal additional unit will not impinge on any views or panoramas surrounding the site. The proposal accords broadly with the objectives of Policy DES1 of the LDP regarding general design considerations. Given the distance between the site and existing residential properties there will be no adverse impact on residential amenity as a result of these alterations and the objectives of policies DES1 d) EP1 are complied with.

The structures are only single-storey in height and located between existing buildings on the site and as such, they are not visually prominent when viewed from outside the site. The proposal will not result in a visual intrusion or cause an adverse change in the character of the natural landscape. The proposal therefore accords with both policies LC1 and LC5 which both seek to protect landscape character. The Biodiversity Enhancements have been included on the elevational drawings; these are commensurate with the scale of the proposal. This will ensure that the provisions of Policy NE1 of the LDP are met with regards to providing biodiversity enhancements. The site is well established, and the Highway Authority offers no objection to the additional pitch. The Highway Authority advises that the increase in traffic movements associated with the additional pitch would not be detrimental to the safety and capacity of the local highway network. The submitted plan indicated that sufficient car parking provision can be provided within the site. The proposal accords with the objectives of Policy MV1 of the LDP. The LPA considers that it would be unreasonable to insist on a PTP for this one plot when all the other plots are served by **septic tanks**, especially given that the site is located in a Phosphate Sensitive Area, Adequate surface and foul water provision can be provided within the site.

The proposal is policy compliant and is recommended for approval subject to conditions.

## **7.0 RECOMMENDATION: APPROVE**

### **Conditions :**

1 This development shall be begun within 5 years from the date of this permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.



2 The development shall be carried out in accordance with the list of approved plans set out in the table below.

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

3 The occupation of the site shall only be by Gypsies and Travellers as defined in Circular 005/2018 published in June 2018 where Paragraph 2 refers to Section 108 of the Housing (Wales) Act 2014 where Gypsies and Travellers are defined as:

a) Persons of a nomadic habit of life, whatever their race or origin, including

(i) "Persons who, on grounds only of their own or families or dependent's educational or health needs or old age, have ceased to travel temporarily or permanently, and

(ii) Members of an organised group of travelling show people or circus people (whether or not travelling together as such); and

b) All other persons with a cultural tradition of nomadism or of living in a mobile home. Shall be stationed at the site at any one time.

REASON: To ensure the site is only occupied by qualifying gypsies or travellers in accordance with Welsh Government Circular 005/2018.

4 No further development should commence on site until the surface water drainage proposal has been approved in writing by the LPA. **Implementation?**

Reason - To prevent excessive additional runoff from the site increasing flood risk.

5 No development will be permitted within the existing surface water flood extents as identified by NRW Flood Risk Mapping.

Reason - So as to not place any new or existing properties at risk of increased flooding.

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# Agenda Item 4f

**Application Number:** DM/2022/00484

**Proposal:** Full planning application for the construction of 9 dwellings including means of access, drainage, landscaping, associated engineering and infrastructure works

**Address:** Land at former Tythe House, Church Road, Undy, NP26 3EN

**Applicant:** Mr Chris Withey

**Plans:** Section 38 Highways Layout 9766-Gry-01-00-DR-C-102 REV P02 (13.10.22)  
Drainage layout 9766-GRY-01-00-DR-C-100 REVP04 (13.10.22)  
Vehicle Tracking. Refuse vehicle 9766\_GRY-01-100-DR-C-105 REVP05 (13.10.22)  
Retaining Wall section Plot 9 – 6830 Sk1 Oct 22  
Planting Plan 521.01 B

Location Plan T2326-1-PA-01  
Site Survey T2326-1-PA-02  
Site Plan T2326-1-PA-03 C (13.10.22)  
Site Plan levels T2326-1-PA-04A  
Site hardscape/boundary treatments T2326-1-PA-05B (13.10.22)  
Screen Wall details T2326-1-PA-06  
Boundary Fence T2326-1-PA-07  
Mesh Boundary fence T2326-1-PA-08  
Front boundary fence T2326-1-PA-09  
Paviour details T2326-1-PA-10

Plot 1 Floor Plans T2326-1-PA-11B (13.10.22)  
Plot 1 Proposed Elevations T2326-01-PA-115B (13.10.22)  
Plot 2 Floor Plans T2326-1-PA-15A  
Plot 2 Elevations T2326-1-PA-15  
Plot 3&4 Floor Plans T2326-1-PA-16  
Plot 3&4 Elevations T2326-1-PA-17  
Plot 5&6 Floor Plans T2326-1-PA-18  
Plot 5&6 Elevations T2326-1-PA-19  
Plot 7&8 Floor plans T2326-1-PA-24  
Plot 7&8 Elevations T2326-1-PA-25  
Plot 9 Floor Plans T2326-1-PA-26  
Plot 9 Elevations T2326-1-PA-27

Street Elevations T232-1-PA-28  
Long Sections T2326-1-PA-32  
Habitable distances T2326-1-PA-33  
Sections and cross sections T2326-1-PA-35  
Site Sections T2326-1-PA-36  
Site Sections T2326-1-PA-37

**RECOMMENDATION: Approved Subject To S106 agreement**

Case Officer: Ms Kate Young  
Date Valid: 29.03.2022

**This application is presented to Planning Committee due to the number of unresolved objections received**

## **1.0 APPLICATION DETAILS**

### 1.1 Site Description

The application site which measures 0.4 ha is located within the Magor with Undy Development Boundary. The site which until recently contained a two storey dwelling and some stone outbuildings, is now vacant and overgrown. Towards the centre of the site are some mature trees which are the subject of preservation orders. To the south of the site is Church Road and St Marys Church. To the north is the playing fields with the railway line beyond. To the east and west of the site is existing residential development which comprises two-storey detached dwellings. Topographically the site slopes upwards from southwest to northeast. The site contains an existing Public Right of Way which runs from north to south along the eastern boundary, this connects Church Road with the open space to the north.

In 2010 planning permission DC/2007/01277 was granted for residential development on the site involving conversion of existing buildings to four dwellings and erection of six new build dwellings, two of the new dwellings on the site were to be affordable and subject to a s106 Agreement. Work on that development never started and the permission has now lapsed.

The site is within a designated Archaeologically Sensitive Area. The southern half of the site is within a C1 Flood Zone.

### 1.2 Value Added

Following negotiations with planning and highway officers the proposed layout of the site and the design of the houses has been significantly altered to protect residential amenity and to comply with highway standards. The width and alignment of the public footpath through the site has been altered; it is now 3 metres wide for its whole length.

### 1.3 Proposal Description

This full application seeks the erection of nine new residential properties two of which would be affordable and constructed to Welsh DQR standards. A new access would be created off Church Road. A private drive would provide vehicular access to the three properties at the front of the site. To the front of the site a new footpath would be created along Church Road and between the footpath and houses would be the sustainable drainage system including swales. The existing public footpath to the north would be retained and resurfaced to a width of three metres.

On the southern part of the site there would be three, 4-bedroom, detached dwellings with integral garages facing towards Church Road. There would be two pairs of semi-detached dwellings, facing north east towards the public right of way. Plots 5 and 6 would be the affordable units and each would have two bedrooms. Plots 3 and 4 would have a four bedrooms each, one of which would be in the roof space. There would be roof lights on the front and rear elevations. At the end of the spine road, facing in towards the site would be two detached properties. Plot 1 would have three bedrooms on the first floor and a master bedroom with en-suite in the roof space, this property would have three roof lights on the front elevation. Plot 1 would also have three bedrooms at first floor level and a fourth bedroom in the roof space. The roof space would be served by windows in the front and rear gables and one rooflight.

All of the dwellings would be finished in white render with Stonewold grey slates on the roof. The parking spaces would be of permeable pavements. The boundary fences would be retained where possible there would also be a chain link fence to the rear of plots 1 and 2, hooped metal railings and screen walling to the side of plot 1 adjacent to the footpath. A comprehensive planting plan has been submitted which included tree and shrub planting. The ground levels at the front of the site are being raised significantly.

The planning application is supported by the following information:

Planning Statement - Highlight Planning;  
 Preliminary Ecological Appraisal - Wildwood Ecology;  
 Site Investigation Report - Integral Geotechnique;  
 Flood Consequences Assessment - GRAYS;  
 Drainage Design Statement - GRAYS;  
 Tree Survey - Treescene;  
 Tree Constraints Plan - Treescene; and  
 Planting Plan - Catherine Etchell Associates Ltd.

## 2.0 RELEVANT PLANNING HISTOREY (if any)

Reference Number	Description	Decision	Decision Date
DM/2022/00484	Full planning application for the construction of 9 dwellings including means of access, drainage, landscaping, associated engineering and infrastructure works.	Pending Determination	
DC/1996/01103	Change Of Use To Licensed Premises.	Approved	24.02.1998
DC/2002/00325	Conversion Of Existing Buildings And Six Number New Build Residential Units With Garages And Associated Works.	Approved	14.10.2004

## 3.0 LOCAL DEVELOPMENT PLAN POLICIES

### Strategic Policies

S1 LDP The Spatial Distribution of New Housing Provision  
 S4 LDP Affordable Housing Provision  
 S12 LDP Efficient Resource Use and Flood Risk  
 S13 LDP Landscape, Green Infrastructure and the Natural Environment  
 S16 LDP Transport  
 S17 LDP Place Making and Design

### Development Management Policies

H1 LDP Residential Development in Main Towns, Severnside Settlements and Rural Secondary Settlements  
 SD3 LDP Flood Risk  
 SD4 LDP Sustainable Drainage  
 NE1 LDP Nature Conservation and Development  
 MV1 LDP Proposed Developments and Highway Considerations  
 MV3 LDP Public Rights of Way  
 DES1 LDP General Design Considerations  
 EP1 LDP Amenity and Environmental Protection

## Supplementary Planning Guidance

Affordable Housing SPG July 2019:

<https://www.monmouthshire.gov.uk/app/uploads/2019/09/Final-Adopted-SPG-July-2019.pdf>

Infill Development SPG November 2019:

<https://www.monmouthshire.gov.uk/app/uploads/2020/02/Appendix-2-Infill-Development-SPG-Latest-Version-for-Final-Adoption-2020-Dave-adjustments-00000002.pdf>

Green Infrastructure April 2015:

<http://www.monmouthshire.gov.uk/app/uploads/2015/07/GI-April-2015.pdf>

Domestic Garages SPG (January 2013):

<http://www.monmouthshire.gov.uk/app/uploads/2015/07/Domestic-Garage-SPG-Jan-2013.pdf>

Monmouthshire Parking Standards (January 2013)

<http://www.monmouthshire.gov.uk/app/uploads/2015/07/Mon-CC-Parking-Standards-SPG-Jan-2013.pdf>

National Planning Policies (If Any)

Technical Advice Note (TAN) 15: Development and Flood Risk (2004):

<http://gov.wales/topics/planning/policy/tans/tan15/?lang=en>

## 4.0 NATIONAL PLANNING POLICY

### Future Wales - the national plan 2040

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales - the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

### Planning Policy Wales (PPW) Edition 11

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

## 5.0 REPRESENTATIONS

### 5.1 Consultation Replies

**Magor with Undy Community Council** (August 2022) – the Council considered the content of this application and were aware of previous application for the same site. They were mindful of concerns raised by Network Rail regarding proximity, drainage, noise and lighting impact upon railway line infrastructure. The Council are further mindful of the matters raised by Monmouthshire CC Highways as there remains unanswered questions regarding the public right of way and encroachment onto

the highway. That the proposed application was an over-development and not considerate of the existing environment.

It is recommended that the application be declined because it does not satisfy the concerns of residents, consultees and the proposed application is considered to be an over-development which is inconsiderate of the existing environment.

**MCC Highways** - I can confirm that the overall layout issued by Grays is now satisfactory and addresses my previous concerns.

**NRW** - We have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome by attaching conditions relating to flood risk and protected species.

**MCC Housing Officer** -

It is agreed that there would be provision for 2 x 4 person 2-bedroom affordable houses which meets the policy requirement for 25% on site affordable housing and meets an identified need in this location. The affordable units aren't clearly marked on the plans but I understand these to be units 5 and 6. The affordable homes need to be designed to meet WDQR 2021 Appendix A and B space requirements, this has been confirmed by the developer and is reflected in the floor plans provided. The affordable homes would need to be neutral tenure at this stage and will be transferred to the preferred RSL, in this instance Melin Homes. I can see that the plans have been amended so that the affordable homes now provide 2 parking spaces each and accessed from the adopted road rather than a private drive.

**MCC Ecology** - No objection subject to conditions.

**Network Rail** - No objection.

**Dwr Cymru - Welsh Water** - No objection subject to a condition requesting a drainage scheme.

**GGAT** - The proposal requires archaeological mitigation. I can confirm the submitted WSI is appropriate (our ref. MON1603).

**SuDS Approving Body** - Concerns with regards flood risk.

**Surface Water Drainage**

The application has demonstrated a means of surface water discharge (rainwater harvesting, infiltration, watercourse, surface water sewer or combined sewer) and has submitted a pre-application for the SAB's approval therefore there are no objections to this site on a Surface Water Drainage Basis.

From the plans submitted the total construction area is above 100m<sup>2</sup> (building footprint, yard area, hardstanding and parking bays) if it is then SAB approval will be required prior to any works commencing on site. Please attach a SAB informative to the decision notice and draw the applicant's attention to this requirement. This does not however subtract from the need for the drainage statement highlighted above

**Flooding**

The FCA submitted by the applicant assesses the impacts of the flood risk on the site.

NOTE the flood maps used are the current flood maps. In December 2021 NRW released new maps alongside the TAN15 changes. These maps show significantly more flood risk to the site as there was a change in the classification in the NRW Flood Defences. We would request the applicant demonstrate/assess the flood risk against this new set of maps as it significantly increases the flood risk to the site.

**MCC Environmental Health**

The proposed development is in close proximity to the railway line and there is potential for disturbance of noise from the rail traffic on the use and enjoyment of the residential properties should be considered. Recommend that a noise assessment is undertaken. No dimensions or measurements shown on the plans.

**MCC Tree Officer - No objection.**

The applicant has submitted a BS5837: 2012 tree survey report and accompanying tree constraints plan. The five trees listed in the report are two Sycamore (T1, T5) and three False Acacia (T2, T3, T4). Trees 1 - 4 have been graded as category U (very poor condition / dead) and recommended for removal, and the offsite tree T5 listed as a category C low quality tree with a useful life expectancy of 10 - 20 years. It is very unlikely that trees 1 - 4 would significantly improve in condition, and I have no objection to their removal.

**MCC Public Rights of Way Officer (PROW) – Objects.**

Council Public Rights of Way (PROW) Team seek positive outcomes from development by pursuing the improvement of existing PROW, the application of good design principles to new routes and the provision of new or upgraded routes. Public path number 1 in the community of Magor with Undy runs through the site of the proposed development. The existing right of way is a footpath, and the width of this way is believed to be the full width of the bounded area which is around six metres for most of its length. The path is a proposed Active Travel route. The Active Travel (Wales) Act 2013 requires that highway authorities, local authorities and the Welsh Ministers must take reasonable steps to enhance the provision made for walkers and cyclists. Instead of enhancing and improving the path, this application seeks to diminish the size of the path and for this reason this planning application is objected to. Monmouthshire Public Rights of Way ask that the existing right of way is left at its full width, and the development is changed to accommodate this. If the applicant wishes to reduce the width of the way, then a path order application will need to be made and a successful path order will be required. Importantly, path orders are subject to legal tests and public consultation, path order applications are therefore not guaranteed to succeed.

5.2 Neighbour Notification

Letters of objection were received from seven addresses following re-consultation (updated 16/10/22). These can be read in full on the website but are summarised here for reference; comments, initial and post re-consultation, have been included.

- The updated plans show no significant change. They still show overdevelopment of the site with houses that are overbearing and not in keeping with the current street scene. The ridge levels of all the new houses will be well above the ridge levels of all surrounding properties. The site should be developed with bungalows or an older people's complex. Loss of light to neighbouring properties resulting from the raising of ground levels.
- Insufficient dimensions and information in relation to distances between properties. Details of existing properties not shown. The plan does not show the existing access track.
- Private shared driveways should be a minimum of 4.5m wide, the road is too narrow.
- Church Road cannot accommodate any more traffic. Highway danger due to increased traffic. No visitor parking, provided. Danger to pedestrians who use this area for daily walking. Additional traffic will compromise the use of a thriving community hall. There are no pavements on Church Road, so a danger for school children. Headlights from cars will shine into existing properties.
- Concerns over who will maintain the land between plots 9 and 14 Bridewell Gardens.
- Surface water run-off from the proposed raised levels may flood neighbouring and existing properties. Increase risk of flooding.
- Loss of privacy of garden due to raised ground levels, including rear garden of Camelot.
- Concerns over capacity of current pipework/drainage infrastructure to accommodate more development.
- Noise and pollution during construction and following the completion of the development



- MCC Estates Solicitor has confirmed that an historical "statement of truth" exists on at least one of the 1950s semi-detached properties adjacent to this land and backing on to the playing fields, which states that both vehicular and non-vehicular access to the rear garden of the said property exists via the PROW and via the field, now leased via a Community Asset Transfer by Undy AFC.
- Overbearing impacts and loss of light to dwellings and gardens.
- Will the wildflower/wildlife corridor that is adjacent to my property be above or below the low retaining wall and who will maintain it?
- Concerns over the width of the PROW and vehicular and pedestrian access through the existing.
- Adverse impact on the character of the area. However we welcome development of the site but the density is too high.
- Does not comply with the SPG on Infill Development.
- Previous applications on this site have been refused
- Public transport in the area is inadequate for this development
- I would like to see the person responsible for arranging for the old house and the even older barn to be demolished, prosecuted for doing so without either planning nor archaeological consideration
- TPO's on the site have been nullified.

### 5.3 Other Representations

None Received

### 5.4 Local Member Representations

Councillor Angela Sandles and Cllr John Crook.

The number of dwellings proposed is overdevelopment for the area in question. Nine homes on such a small plot of land seems excessive. There are clearly two pinch-points. Namely, plot one with regards to the PROW, and plot nine in regard to neighbouring property (14 Bridewell Gardens) noting there will possibly be problems with surface water drainage into this property from the new development. The ridge height of the proposed properties in comparison to the existing properties is not compatible due to the disparity in heights. I have reservations about the size/width of the proposed roads on this site, noting that large vehicles such as general deliveries and refuse collections needing access will be unable to turn which could be a health and safety issue.

Also raise concerns over the extent of Green Infrastructure on the site as part of the overall scheme.

Therefore, I strongly object to this development in its current format.

Please note all representations can be read in full on the Council's website:

<https://planningonline.monmouthshire.gov.uk/online-applications/?lang=EN>

## **6.0 EVALUATION**

### **6.1 Principle of Development**

PPW 11 paragraph 4.2.23, states that proposals for housing on infill and windfall sites within settlements should be supported where they accord with the national sustainable placemaking outcomes. The site is located within the Magor with Undy development boundary within which there

is a presumption in favour of new residential development subject to detailed planning considerations. The plot is of sufficient size to accommodate nine residential dwellings of a similar size to existing dwellings in this area. Policy S1 and H1 allow for new residential development to be built inside the development boundaries of Severnside Settlements of which Undy is one. Therefore, the principle of new residential development in this location is acceptable.

## **6.2 Sustainability**

The Local Development Plan (LDP) and PPW encourage sustainable development and promote making the most efficient use of brownfield land. This is a sustainable location for a new residential development as it is located within an existing residential area close to many facilities such as the playing fields and the primary school. The site is also within reasonable walking distance of the shops and other services provided in Magor Square. Magor with Undy is served by a local bus service linking it to the larger settlements of Caldicot, Chepstow and Newport. The proposal accords with a key objective of PPW11 providing residential accommodation in a sustainable location.

### 6.2.1 Good Design

Policy DES1 of the LDP requires that all development shall be of a high quality, sustainable design and respect the local character and distinctiveness of Monmouthshire's built, historic and natural environment. The adopted SPG on Infill Development says that the size of the infill proposal should reflect the prevailing character of the adjacent properties in terms of scale, mass and rhythm of the street scene. The proposed new dwellings will be set back approximately 20 metres from Church Road, and Green Infrastructure and a rain water garden will be set between the road and the new dwellings, providing a visual buffer and biodiversity enhancement. The public right of way will be open and visually linked to the development, providing open views through the site.

Planning officers have spent considerable time discussing the design of the house types with the developers and many changes have been made. Plots 7, 8 and 9 do follow the pattern of the street scene, facing onto Church Road although they are set slightly further back in the plot. The ground levels of this part of the site have to be raised to take the properties out of the flood zone; as a result the finished floor levels of these three units are above those of the adjoining properties. In order that the roof heights do not exceed the ridge heights of neighbouring properties, the roof pitches on these three new dwellings are shallow and the maximum ridge height is less than 7 metres.

Plots 5 and 6 are the proposed affordable units. They have a simple design but the central part of the front elevation protrudes forward slightly and there is a canopy over the front doors. The affordable units will be finished in the same materials as the rest of the development which helps them to assimilate. They have the same level of detailing as the other properties on the development with brick headers and concrete cills. Plots 3 and 4 are also a pair of semi-detached properties. They have quite a steep roof pitch with a maximum ridge height of 8.7 metres. They have high level windows serving the rear bedrooms. There are canopies over the front doors that are finished in grey hanging tiles. Plots 1 and 2 are a detached dwellings. They will appear to be three storey because of the large windows in the top gable in the roof space but will be 8.5 metres in height to the ridge. The principal windows of plot 1 and 2 are on the rear elevation, facing towards the playing fields and on the front elevation looking into the site.

The new development on this site will engage well with the existing properties on Church Road and will enhance the street scene. The massing and form of the new dwellings respect the character and form of the existing dwellings in the area. They are of a similar size, height and plot width when compared to other properties in this part of Church Road. All of the dwellings will be finished in white render with grey slate Stonewold tiles on the roof. The window frames will be charcoal grey upvc which will give a contemporary feel to the development. The finishing materials on the two affordable units on plots 3 and 4 match exactly those on the rest of the site and therefore there will be no visual distinction between the market housing and the affordable ones. The scale of the proposed dwellings and their finishing materials will respect those of the surrounding existing residential development and therefore the character of the area will be preserved in line with the objectives of Policy DES1 of the LDP.

## 6.2.2 Place Making

Policy DES1 of the LDP requires that the development contribute to a sense of place while its intensity is compatible with existing uses. PPW 11 says that good design is fundamental to creating sustainable places where people want to live work and socialise. The special character of an area should be central to its design. Policy DES1 criterion i) of the adopted Local Development Plan says that Development proposals will be required to make the most efficient use of land, compatible with other criteria, including that the minimum net density of residential development should be 30 dwellings per hectare. In this case the developable site area is circa 0.3ha and 9 homes are proposed which provides a net density of 30 dwellings per hectare, thus complying with LDP Policy DES1. The density size and massing of the proposed new development would be similar to that of the adjoining housing development at Bridewell Garden. Planning officers consider that the prevailing character of this area is being reflected in the new proposal. It is accepted that the housing development to the south of this site, on the opposite side of Church Road, is predominantly bungalows set on large plots, and therefore their density is lower. The proposed new development, however, will be seen more in the context of Bridewell Gardens and the properties to the north of Church Road.

In this case the layout, form scale, visual appearance of the development does engage with its surroundings, providing new residential dwellings in an established residential area. The character of the area is respected in terms of massing, scale, form and materials. The development will contribute to a sense of place. An area of overgrown waste land will be used to provide nine contemporary houses which will visually enhance the area. The proposal therefore complies with one of the key objectives of PPW11.

## 6.2.3 Green Infrastructure and Landscape

There will be a substantial amount of green infrastructure to the front of the site in the form of rain gardens and swales, these will be planted with a wild flower mix. This will form part of the Sustainable Drainage System (Suds). There will be several shrub beds planted throughout the site. Five new trees will be planted at the front of the site with a further two, further back in the site. A ruderal vegetation strip will be retained at the northern end of the site, adjacent to the playing fields, this is to provide reptile habitat. The applicant has submitted a tree survey report and tree constraints plan. There are five trees subject to a Preservation order listed in the report, of which there are two Sycamore (T1, T5) and three False Acacia (T2, T3, T4). Trees 1 - 4 have been graded as category U (very poor condition / dead) and recommended for removal, and the offsite tree T5 listed as a category C low quality tree with a useful life expectancy of 10 - 20 years. It is very unlikely that trees 1 - 4 would significantly improve in condition, and the MCC Tree Officer has no objection to their removal. However following negotiations with planning officers the layout of the scheme has been amended and trees T1, T2, T3 and T5 are now being retained. The three False Alders will be retained in an area of Public Open Space and subject to a management company for maintenance purposes. An Arboricultural Method Statement (AMS) including details of how the adjacent large Sycamore tree (T5) to the North West of the site will have its Root Protection Area (RPA) protected during the proposed work will be required by condition.

## **6.4 Historic Environment**

The site is not in a Conservation Area. St Mary's Church to the south east of the site is Grade II Listed. A Roman building was found at Undy Athletic Club and the finds of Roman and medieval date within the church yard of St Mary's Church, less than 30m away from the site, shows that there is the likelihood of evidence for previous human activity being located in the application area. Therefore GGAT have requested a condition for a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource via condition.

## **6.5 Biodiversity**

Wildwood Ecology have undertaken a Preliminary Ecological Appraisal (PEA) of the Application Site. The ecological baseline conditions at the site and immediately adjacent areas were assessed in July 2020 and March 2022 through a combination of desk study and field Surveys which followed the standard Phase 1 Habitat Survey protocol. The Phase 1 Habitat Survey and desk top analysis found that the site was located a sufficient distance away from any designated sites. Accordingly,

there would be no impacts on designated features because of development on this site. No overriding constraints were identified in terms of particularly sensitive ecological succession on the site.

MCC Ecologists evaluated the PEA and found the site to include scattered trees, tall ruderal vegetation, dense bramble scrub, and poor semi-improved grassland as well as two metal shipping containers present at the eastern site boundary. No invasive species were identified within the site during the survey. Habitats within the site are considered to provide suitable commuting, foraging and nesting opportunities for bats, nesting birds, badger, hedgehog, invertebrates and low numbers of reptiles. The walkover surveys followed standard survey guidelines as set out in Joint Nature Conservation Committee (JNCC) (2010) Handbook for Phase I Habitat Survey. A technique for environmental audit.

Three trees within the site were assessed as having low potential for roosting bats. Surrounding habitats including the nearby railway corridor provide good foraging opportunities for bats. The shipping containers were assessed as having negligible potential for roosting bats. Precautionary methods have been recommended regarding the protected and priority species listed above within the ecology report. These measures are deemed acceptable for the works. The level of survey effort and assessment is considered proportionate to the nature and scale of the application. MCC Ecologists agree with the conclusions of the PEA. The ecology report also states that a dark corridor should be maintained around the boundary of the site. Any lighting to be installed as part of the development must be designed sensitively for biodiversity to minimise impacts to nocturnal species. This can be imposed by condition.

#### Biodiversity Net Benefit

Planning Policy Wales (PPW) 11 sets out that "planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity" (para 6.4.5 refers). This policy and subsequent policies in Chapter 6 of PPW 11 respond to the Section 6 Duty of the Environment (Wales) Act 2016. The PEA report includes details of proposed enhancement measures to include installation of five bat boxes, three house sparrow terraces, three starling boxes and two bird boxes. The report recommends box designs of suitable sturdy construction. Additionally, raingardens and wildflower grassland areas will be incorporated into the development design. These enhancement measures are considered acceptable for the proposals and locations are illustrated in 'Appendix II: Proposed Development Plans and Enhancement Plan 2022' of the PEA report. The proposal accords with the objectives of Policy NE1 of the LDP.

### **6.6 Impact on Amenity**

The site is surrounded by residential properties, the dwellings on Church Road and Bridewell Gardens are immediately adjacent to the site and are all two storey in height. In addition there is a row of three bungalows to the south of the site on the opposite side of Church Road. Undy Community Hall and carpark are to the east of the site on the opposite side of Church Road.

To the north east of the site is a two storey dwelling named Camelot. It has its side elevation facing into the site. There are no windows on this side elevation. Plots 4 and 5 of the new development face the side elevation of Camelot at a distance of over 11 metres. Between the front elevation of these new dwellings and the side elevation of Camelot is the access road into the site and the public right of way. The existing boundary wall for Camelot adjacent to the public right of way (PROW) will not be altered as a result of this proposal. Plot 6 will look towards the front garden of Camelot and plot 3 will look towards the rear garden, again this it at a distance of over 11 metres. Plots 1 and 2 will face into the site with their principal windows facing into the playing fields at the rear. Plot 2 has no windows on the south west elevation and it is over 20 metres from the side elevation of 9A Bridewell Gardens and at least 10 metres from the rear elevation of Carolyn in Bridewell Gardens. The existing timber boundary fence along the common boundary will be retained and because of the distance between the existing and the proposed dwellings and their orientation there will be no significant loss of privacy.

Plots 7,8 and 9 all face towards the rear elevation and garden of Darlea. In 2021 planning permission was granted for a single storey extension to the rear of Darlea, that will protrude 3.5 metres from the rear elevation and run the whole width of the house. It extends to approximately 7 metres of the boundary. There is a close boarded fence along the common boundary. The separation distance from the rear elevation of Darlea (minus the first floor extension) to the rear elevation of plot 9 of the new development would be 21 metres which complies with the standards outlined in the adopted SPG. The approved single storey extension to Darlea, if built, would be protected from overlooking by the close boarded fence along the common boundary. When originally submitted plots 7, 8 and 9 all had large first floor balconies proposed on the rear elevations overlooking Darlea, but all of the balconies have now been removed in order to protect residential amenity.

No 14 Bridewell gardens faces onto Church Road. Plot number 9 will be adjacent; there will be a separation distance of 4.264m between Plot 9 and 14 Bridewell Gardens. The existing floor level of No14 Bridewell Gardens sits at circa 8m and the FFL of Plot 9 will sit at 9.3m. No 9 will be built on a retaining wall and there will be a strip of wildflower planting between the two. Plot no 9 is set much further back in the plot so that the front elevation of plot 9 lines up with the rear elevation of no 14 Bridewell Gardens. However, given the distance between the two properties, the 45 degree rule, as referred to in the Infill Development SPG. Plot no 9 has a side window on the first floor facing towards no 14 Bridewell Gardens, this will serve an en-suite and will be of obscure glazing. No 14 Bridewell Gardens also has a first floor window on the side elevation but the two properties are staggered so that the windows will not overlap.

To the south of the site is a row of three bungalows. These are set at a lower level and approximately 18 metres back from the road. Given this arrangement there will be no unacceptable levels of overlooking and overdominance as the front elevations of the new dwellings are over 40 metres from the front elevations of the bungalows.

The proposal accords with the Council's normal privacy standards for new development. The layout of the proposed development accords with the objectives of policies DES1 and EP1 in terms of respecting the amenity of the occupiers of existing neighbouring residential properties. The proposal also accords with the specific privacy distances outlined in the adopted SPG on Infill Development.

## **6.7 Highways**

### 6.7.1 Sustainable Transport Hierarchy

PPW11 refers to the Sustainable Transport Hierarchy where walking and cycling are the highest priority and public transport second with private motor vehicles being the least desirable. In this case the site is located within the Severnside Settlement of Magor with Undy. The Square in Magor, which is less than one mile from the site contains a Post Office, supermarket and other facilities. There are two primary schools within walking distance of the site, There are also Churches and public Houses within the Village. There is a public bus service that runs from Newport to Chepstow and this gives easy access for the range of facilities in the nearby settlement of Caldicot. The site is in a relatively sustainable location so that the occupiers of these dwellings will be less reliant on the car to go about their daily business.

### 6.7.2 Access / Highway Safety

At the request of the Highway Authority the layout of the site has been altered to ensure that there is no development on highway land and to ensure adequate turning provision within the site. The additional pavement along Church road is to be welcomed. The proposal is now acceptable having regards to access and accords with Policy MV1 of the LDP.

### 6.7.3 Parking

The adopted Monmouthshire Parking Guidelines require one car parking space per bedroom for new dwellings up to a maximum of three per dwelling. In this case, three car parking spaces are being provided for each dwelling except for units 3 and 4 which will have two car parking spaces each as they are two bedroom properties. The proposal therefore accords with the adopted parking

standards and complies with the objectives of Policy MV1 of the LDP. A condition will be imposed ensuring that the car parking provision is provided prior to occupation of the dwellings.

## **6.8 Affordable Housing**

Policy S4 of the Local Development Plan requires affordable housing contributions to be made in relation to developments which result in the net gain in residential dwellings. The policy says that within the Severnside Settlements, developments sites with a capacity of five or more dwellings will make provision for 25% of the total number of dwellings on the site to be affordable. In this case two affordable units are being provided on the site, these are both 2 bed units and are compliant with DQR standards. The provision of two bedroom units is in line with the need demonstrated on the local housing register. The affordable units will be constructed by the developer and then passed onto a social housing provider, Melin Homes. This will be secured via a s106 Legal Agreement.

## **6.9 Flooding**

The southern half of the site is within a C1 Flood Zone as defined in the Development Advice Map (DAM) contained in TAN15. Section 6 of TAN15 requires the Local Planning Authority to determine whether the development at this location is justified. Paragraph 6.2 of TAN 15 says that new development should be directed away from zone C and towards suitable land in zone A, otherwise to zone B, where river or coastal flooding will be less of an issue. In zone C the tests outlined in sections 6 and 7 will be applied, recognising, however, that highly vulnerable development and Emergency Services in zone C2 should not be permitted. All other new development should only be permitted within zones C1 and C2 if determined by the planning authority to be justified in that location. Development, including transport infrastructure, will only be justified if it can be demonstrated that:

- i) Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or,
- ii) Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region; and,
- iii) It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,
- iv) The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and Appendix 1 found to be acceptable.

In this case the site is not in a C2 Zone. The new housing will be built on previously developed land (this site used to be occupied by a two-storey dwelling, a stone barn and various outbuildings). A Flood Consequences Assessment (FCA) was submitted as part of the application. It is proposed to raise the ground levels in the southern part of the site by 1.3 metres so that the Finished Floor Levels will all be above 9.3m AOD. The private drive for plot 9 will be at 9.1m AOD. NRW have evaluated the FCA and concluded that, "Subject to the development being carried out in accordance with the FCA, the development meets with the requirements of A1.14." They recommend that a condition be imposed that the planning permission shall only be carried out in accordance with the approved Flood Consequence Assessment.

The Planning Authority believe that the location of this development in a C1 Zone is justified and that all of the criteria set out in the tests in paragraph 6.2 of the TAN are satisfied.

## **6.10 Drainage**

### **6.10.1 Foul Drainage**

The application site is in an area served by mains drains and in such areas the foul drainage must discharge to mains. The applicant has indicated that this is the case. Welsh Water have offered no objection to the application but refer us to the condition requesting that surface water does not enter the mains drains.

### **6.10.2 Surface Water Drainage**

Grays have prepared a drainage strategy to support the planning application. The application will be subject to the SuDS legislation. The applicants intended to run consultation with the SuDS Approving Body (SAB) in parallel with the planning process. A series of SuDS features including swales, raingardens and permeable paving are proposed to serve the development site. The dwellings will drain to individual permeable paving and raingardens at plot level which will be retained under private ownership. The swale/raingarden features running parallel to the access road(s) and the main raingarden/bioretention feature near the site's access will be offered for adoption.

The SAB approving body confirms that the application has demonstrated a means of surface water discharge. A pre-application submission for the SAB's approval has been made and therefore there are no objections to this site from a surface water drainage perspective.

### **6.11 Phosphates**

Under the Conservation of Habitats and Species Regulations 2017 it is necessary to consider whether the development should be subject to a Habitat Regulations Assessment. This is in particular reference to the impact of increased concentrations of Phosphates on designated SAC's. NRW has set new phosphate standards for the riverine SACs of the Wye and Usk and their catchment areas. Development that may increase the concentration of phosphates levels will be subject to appropriate assessment and HRA. This application is outside of the SAC catchment and so will not have a detrimental impact on any protected SAC, and as a result no further assessment is required.

### **6.12 Contaminated Land**

A Site Investigation Report prepared by GHR Developments was submitted as part of the planning application. They contracted a contaminated land consultancy to undertake a site investigation and risk assessment. MCC Environmental Health Officers have reviewed the submitted site investigation report by Integral Geotechnique (12700/RAH/20/SI) dated September 2020. This report is a desk top study and intrusive site investigation.

It appears that Tythe House, which was present on the earliest historical maps, was demolished in around 2014 and the trail pits dug at the site, and a site walk-over identified made ground on site. This made ground consisted of brick, concrete, plastic, clay pipes, scrap metal and timber. In addition asbestos containing material was identified on site. Two stockpiles were present containing pipe fragments, plastic, bricks, wood chippings, and asbestos containing tile fragments. Laboratory testing of the 4 samples taken from the made ground identified exceedances above the assessment criteria, for lead and several PAHs. No samples were taken from the natural ground, or from the stockpiled materials, however the asbestos containing tile found in one of the stockpiles was sampled and found to be chrysotile hard cement material. The site investigation identified that end users would need to be protected from the elevated concentrations of PAH and lead.

The recommendation to achieve this is to use a capping layer of at least 600mm of clean imported subsoil and topsoil over a geotextile membrane in all gardens and area of soft landscaping. Prior to placement of the clean cover, all exposed formations should be inspected and any identified asbestos containing materials handpicked under an appropriate risk assessment and managed in accordance with the Control of Asbestos Regulations 2021, and then disposed off-site at a licensed facility by licenced contractors. An alternative is to remove made ground from garden and landscaped areas and use a 300mm clean cover capping system. If this is chosen all exposed formations would require inspection and sampling and analysis of soils to confirm acceptability of the underlying materials, prior to placement of the capping layer. The decision on which will be chosen is likely dependent on the proposed site levels chosen.

The site investigation also identified construction workers to be at risk from the contaminated material, and thus proposed requirements for working practices, which include the use of dust suppression techniques to minimise inhalation of dust and gases. In addition a system would need to be established to identify additional contamination during work, and reported so appropriate action

can be taken. A licensed contractor would be required to deal with any asbestos materials, and routine visual checks made for its presence on site.

Ground gas from offsite or onsite sources (the made ground was not considered to be thick enough at 0.9 metres to create gas) was not considered to be a risk, however the site is in an area with a probability that between 3%-5% of properties are above the radon action level, and therefore basic radon protective measures are necessary. Water supply pipes will need to be protected from contamination (e.g. PE or PVC pipes to protect against PAHs) if they are in contact with the made ground. The Council's Environmental Health Officer recommends that based on the findings of the site investigation, and the identification of elevated lead and PAHs in the made ground, along with asbestos fibre in one of the two stockpiles, that conditions are needed requiring a Remediation Strategy, including Method statement and full Risk Assessment to be submitted to and approved in writing by the LPA.

There is a small amount of contamination on the site resulting from the demolition of the buildings on the site in about 2014. If undeveloped the contamination will remain in its current form. As part of the proposed development a Remediation Strategy will be implemented which will improve the situation and the contamination will be managed effectively thus improving the situation for existing neighbouring properties and future occupiers of the site.

### **6.13 Public Right Of Way**

There is a Public Right Of Way (PROW) which runs along the north eastern boundary of the application site, linking Church Road with the playing fields and is hard surfaced to a width of approximately 1.3metres. (although this varies along its length). The path is a proposed Active Travel Route. The Active Travel (Wales) Act 2013 requires that highway authorities, local authorities and the Welsh Ministers must take reasonable steps to enhance the provision made for walkers and cyclists. The PROW officer says that the existing right of way is a footpath, and the width of this way is believed to be the full width of the bounded area which is around six metres for most of its length.

The current application seeks to retain the footpath in its current position but to increase the width of the path to three metres for its entire length and to resurface it with tarmac. Planning officers believe that a three metre wide path would be sufficient. This will enhance the current provision and allow for a shared path to be used by pedestrians and cyclists. The three metre width of the path is consistent with other housing developments that have recently been approved in the county including Fairfield Mabey, Sudbrook and Caldicot all of which contain paths that are three metres wide. The applicants may have to apply under the Town and Country Planning Act to reduce the width of the Right of Way.

### **6.14 Noise**

The site is approximately 75 metres from the main South Wales railway line. The railway line is set at the bottom of an embankment and between the site and the railway line is the playing fields. Environmental Health has concerns that the proposed development is in close proximity to the railway line and therefore in their view there is the potential for disturbance of noise from the rail traffic on the use and enjoyment of the residential properties. It is recommended that a noise assessment is undertaken to assess which Noise Exposure Category the proposed site falls within as provided in Planning Guidance Wales Technical Advice Note ( Wales ) 11: Noise.' Planning Officers do not consider that a noise assessment is required in this case given the distance to the railway line (over 75 metres), its location within an embankment and the fact that there are many existing houses in Undy that are far closer to the railway line. The applicants are proposing that triple glazing would be installed to the windows in the rear elevations of Plots 1 and 2 and that this will be maintained as such thereafter. That matter can be secured by condition.

### **6.15 Planning Obligations**

That the two affordable dwellings to be built on plots 5 and 6 that would be handed over to a registered social housing provider within a certain time period secured by a s106 agreement.



## 6.16 Response to the Representations of Third Parties and/or Community/Town Council

Councillor Sandles considers that the proposed development of 9 new dwellings on this site constitutes overdevelopment. Policy DES1 criterion i) of the adopted LDP sets out that development proposals will be required to make the most efficient use of land, compatible with other criteria, including that the minimum net density of residential development should be 30 dwellings per hectare. In this case the developable site area is circa 0.3ha and 9 homes are proposed which provides a net density of 30 dwellings per hectare, thus complying with LDP Policy DES1. The density size and massing of the proposed new development would be similar to that of the adjoining housing development at Bridewell Garden, planning officers consider that the prevailing character of this area is being reflected in the new proposal.

The Councillor also considers that plot 1 is too close to the proposed Right of Way, and while planning officers can see that rotating the dwelling in plot 1 so it was similar to plot 2 would allow for more "breathing space" for the PROW the applicant maintains that this would have an adverse impact on the street scene. Planning officers do not consider that the proximity of plot 1 to the footpath is a justification for refusing the application as it will not adversely affect users of the footpath.

Councillor Sandles considers that plot 9 is too close to the existing property at 14 Bridewell Gardens. The plans show that there will be over 2 metres between the side elevations of these two properties, and this is significantly more than is often allowed between two properties side by side; there will however be a significant difference in the slab levels of each house with Plot 9 being higher than No 14 Bridewell Gardens. The difference in ridge height has been addressed in the main body of the report and is shown on the sectional drawing , Section C-C on plan no. T2326 1 PA 36.

The width of the new road and private shared drive has the approval of the Highway Authority and complies with their standards.

The surface water drainage will be the subject of a separate SAB application and will require a sustainable drainage system designed in accordance with the attached Welsh Government Standards for sustainable drainage. The scheme will require approval by the SuDS Approving Body (SAB) prior to any construction work commencing. The application has demonstrated a means of surface water discharge (rainwater harvesting, infiltration, watercourse, surface water sewer or combined sewer) and has submitted a pre-application for the SAB's approval; therefore there are no objections from the approving body with regards to surface water drainage.

Most of the issues raised by the neighbours have been addressed in the main body of the report. The Highway Authority have no objection to the proposed 9 dwellings on the site and consider that Church Road has sufficient capacity to accommodate this level of development. There will be a footway provided along Church Road which will benefit the local community as, residents correctly say there is no footpath along this part of Church Road at the present time.

The amenity space, wildflower gardens and rainwater gardens will all be maintained by a management company, as is now usual with this type of development.

Whilst it may have been possible to develop this site with bungalows, the application before us is for two storey dwellings, some with accommodation in the roof space and we must consider the application before us.

Planning officers are aware of the single storey extension to Darlea and the bay window to the front of Camelot.

Previously the sewers in this area were at capacity and new dwellings were only allowed where alternative foul drainage discharge was provided. The capacity of the sewers has since been upgraded by DC-WW and this is no longer an issue.

There will inevitably be some noise and disruption resulting from the construction phase of the development; a construction management plan will be imposed to limit the hours of construction operations and deliveries to the site.

## **6.17 Well-Being of Future Generations (Wales) Act 2015**

6.17.1 The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

## **6.18 Conclusion**

The site is located within the Magor with Undy development boundary within which there is a presumption in favour of new residential development subject to detailed planning considerations. The plot is of sufficient size to accommodate nine residential dwellings of a similar size to existing dwellings in this area. Policy S1 and H1 allow for new residential development to be built inside the development boundaries of Severnside Settlements of which Undy is one. Therefore, the principle of new residential development in this location is acceptable. The proposal accords with a key objective of PPW11 providing residential accommodation in a sustainable location.

The new development on this site will engage well with the existing properties on Church Road and will enhance the street scene. The massing and form of the new dwellings respect the character and form of the existing dwellings in the area. They are of a similar size, height and plot width when compared to other properties in this part of Church Road. The finishing materials on the two affordable units on plots 3 and 4 match exactly those on the rest of the site and therefore there will be no visual distinction between the market housing and the affordable ones. The scale of the proposed dwellings and their finishing materials will respect those of the surrounding existing residential development and therefore the character of the area will be preserved in line with the objectives of policy DES1 of the LDP. The development will contribute to a sense of place. An Area of overgrown waste land will be used to provide 9 contemporary houses which will visually enhance the area. The proposal therefore complies with one of the key objectives of PPW11.

There will be a substantial amount of green infrastructure to the front of the site in the form of rain gardens and swales, these will be planted with a wild flower mix and trees. Three of the existing trees on the site will be retained. MCC Ecologists agree with the conclusions of the Preliminary Ecological Survey. Biodiversity enhancements are being provided so the proposal complies with the objectives of policy NE1.

The proposal accords with the Council's normal privacy standard for new development. The layout of the proposed development accords with the objectives of policy DES1 and EP1 in terms of respecting the amenity of the occupiers of existing neighbouring residential properties. The proposal also accords with the specific privacy distances outlined in the adopted SPG on Infill Development. The road and footway layout has been designed on the advice of the Highway Authority who offer no objections and the parking provision accords with the adopted standards therefore the proposal accords with policy MV1. The current application seeks to retain the footpath in its current position but to increase the width of the path to three metres for its entire length and to resurface it with tarmac. Planning officer believe that a three metre wide path is sufficient. This will enhance the current provision and allow for a shared path to be used by pedestrians and cyclists.

Two affordable units are being provided on the site, these are both 2 bed units and are compliant with DQR standards. The provision of two bed units is in line with the need demonstrated on the local housing register and complies with policy H4 of the LDP. The Planning Authority believe that the location of this development in a C1 Zone is justified and that all of the criteria set out in the tests in paragraph 6.2 of the TAN are satisfied. NRW have no objection to the proposal provided that the development being carried out in accordance with the FCA. The SAB approving body confirms that

the application has demonstrated a means of surface water discharge and has submitted a pre-application for the SAB's approval therefore there are no objections to this site on a Surface Water Drainage Basis.

There is a small amount of contamination on the site resulting from the demolition of the buildings on the site in about 2014. If undeveloped the contamination will remain in its current form. As part of the proposed development a Remediation Strategy will be implemented which will improve the situation and the contamination will be managed effectively thus improving the situation for existing neighbouring properties and future occupiers of the site. Planning Officers do not consider that a noise assessment is required in this case given the distance to the railway line (over 75 metres), its location in an embankment and the fact that there are many existing houses in Undy that are far closer to the railway line.

The proposal is policy compliant in all respects and is therefore recommended for approval.

## **7.0 RECOMMENDATION: APPROVE**

Subject to a 106 Legal Agreement requiring the following:

1 Affordable Housing

25%, DQR, Tenure Neutral.

Triggers: The Landowner covenants not to occupy or permit first occupation of more than 80% of the market housing until all of the affordable units have been constructed and are ready for occupation.

Maintenance for GI and Biodiversity.

Management Company

Area of Land to adopted by MCC for public open space to be shown on a plan and 20 years of Maintenance cost added.

Net Developable £233,152.61 inclusive of inflation. Maintenance for 20 years

If the S106 Agreement is not signed within 6 months of the Planning Committee's resolution then delegated powers be granted to officers to refuse the application.

### **Conditions :**

1 This development shall be begun within 5 years from the date of this permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

2 The development shall be carried out in accordance with the list of approved plans set out in the table below.

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

3 The development shall be carried out in strict accordance with Section 5 (Conclusions and Recommendations) of the approved 'Preliminary Ecological Appraisal Report - Former Tythe House, Church Road, Undy by Wildwood Ecology dated 25 March 2022' report.

Reason: To ensure safeguards for species of principle importance for conservation and to ensure compliance with LDP Policy NE1.

4 Notwithstanding the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification) no lighting or lighting fixtures shall be installed on the building or in the curtilage until an appropriate lighting plan which includes low level PIR lighting, provides detail of lighting type, positioning and specification, and ensures that roosting and foraging/commuting habitat for bats is protected from light spill, has been agreed in writing with the LPA.

Reason: To safeguard foraging/commuting habitat of Species of Conservation Concern in accordance with Section 6 of the Environment Act (Wales) 2016 and LDP policies EP3 and NE1.

5 The 'Appendix II: Proposed Development Plans and Enhancement Plan 2022' of the PEA report which illustrates the design and location of bat and bird box provision shall be implemented in full and shall be retained as such in perpetuity. Evidence of compliance with the plan in the form of georeferenced photographs must be provided to the LPA no more than three months later than the first beneficial use of the development.

Reason: To provide biodiversity net benefit and ensure compliance with PPW 11, the Environment (Wales) Act 2016 and LDP policy NE1.

6 The development permitted by this planning permission shall only be carried out in accordance with the approved Written Scheme of Investigation for an archaeological watching brief PN 2821 dated October 2022 by Archaeology Wales.

Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

7 No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul water. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water shall be allowed to connect directly or indirectly with 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.

8 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Consequence Assessment FCA undertaken by Grays (Consulting Engineers) Limited, Reference 9766-REP01-R1-FCA (Revision - R1) dated 24 March 2022 and the following mitigation measures detailed within the FCA:

Development Levels - Finished Floor Levels must be set at or above 9.3 m AOD (metres Above Ordnance Datum) and private drive set at or above 9.1m AOD.

Reason To reduce the risk and impacts of flooding to the proposed properties and their owners/occupiers.

9 Contamination EH0.

Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, a Remediation Strategy, including Method statement and full Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority.

No part of the development hereby permitted shall be occupied until:

Following remediation a Completion/Validation Report, confirming the remediation has being carried out in accordance with the approved details, shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed.

10 Any additional or unforeseen contamination encountered during the development shall be notified to the Local Planning Authority as soon as is practicable. Suitable revision of the remediation strategy shall be submitted to and approved in writing by the Local Planning Authority and the revised strategy shall be fully implemented prior to further works continuing.

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed.

11 Contamination - Imported Material EH03

Prior to import to site, soil material or aggregate used as clean fill or capping material, shall be chemically tested to demonstrate that it meets the relevant screening requirements for the proposed end use. This information shall be submitted to and approved in writing by the Local Authority. No other fill material shall be imported onto the site.

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed.

12 1) PRIOR to the commencement of any works associated with the development (including site vegetation clearance, demolition, tree felling, tree pruning, soil moving, temporary access construction and operations involving the use of motorised vehicles or construction machinery), the following shall be undertaken by a competent arboriculturalist and submitted and agreed in writing by the local planning authority:

a) An Arboricultural Method Statement (AMS) including details of how the adjacent large Sycamore tree (T5) to the North West of the site will have its Root Protection Area (RPA) protected during the proposed works.

b) The AMS must be accompanied by an up to date tree retention and protection plan (TRPP) in accordance with 'BS5837: 2012 - Trees in relation to design, demolition and construction - Recommendation'.

c) The TRPP must clearly show the proposed site layout, including boundary treatments, the crown spread of T5 and its RPA given as a figure on the plan, where tree protection fencing will be located, and what the tree protection fencing will be.

2) During construction

a) No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner other than in accordance with the approved plans and particulars, without the prior written approval of the local planning authority.

b) No fires shall be lit within 15 metres of the nearest point of the canopy of any retained tree.

c) No equipment, machinery or structure shall be attached to or supported by a retained tree.

d) No mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area.

e) No alterations or variations to the approved works or tree protection scheme shall be made without prior written consent of the local planning authority.

REASON: to ensure trees are managed responsibly.

13 All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised Codes of Good Practice. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

REASON: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs and ensure the provision afforded by appropriate Landscape Design and Green Infrastructure in compliance with LDP policies LC5, DES1, S13, and G11.

14 A schedule of landscape maintenance for a minimum period of five years shall be submitted to and approved by the Local Planning Authority and shall include details of the arrangements for its implementation. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

REASON: To ensure the provision of amenity afforded by the proper maintenance of existing and / or new landscape features.

15 No dwelling shall be occupied until the relevant and associated car parking and service vehicle provision have been provided in accordance with the approved plan and that area shall not thereafter be used for any purpose other than the parking of vehicles.

REASON: To ensure provision is made for the parking of vehicles and to ensure compliance with LDP Policy MV1.

16 No development other than ground works shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority. The street shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established.

REASON: In the interests of the highway safety and free flow of traffic in compliance with LDP policies S16 and MV1.

17 No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during demolition and construction; and
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

REASON: In the interests of amenity, in compliance with LDP policies S13 and EP1 and in the interests of the highway safety and free flow of traffic, in compliance with LDP policies S16 and MV1.

18 Triple glazing shall be installed to the windows in the rear elevations of Plots 1 and 2 and shall be maintained as such thereafter.

REASON: In the interests of amenity, in compliance with LDP policies S13 and EP1.

**Application Number:** DM/2022/00969

**Proposal:** Erection of a steel framed portal building to be used for the production and canning of spring water

**Address:** Tump Farm, Usk Road, Llantrisant, NP15 1LU

**Applicant:** Mr Mark Williams

**Plans:** Site Plan Version 2 - , Elevations - Proposed [BD] 01 2

## **RECOMMENDATION: APPROVE**

Case Officer: Ms Kate Young  
Date Valid: 14.07.2022

**This application is presented to Planning Committee having been referred by the Delegation Panel. The application was presented to the Delegation Panel as unresolved objections have been received from three addresses**

### **1.0 APPLICATION DETAILS**

#### 1.1 Site Description

This application relates to an existing farm in the open countryside approximately one mile to the west of the village of Llantrisant. The farm is predominantly a sheep enterprise and employs family members and a full-time paid member of staff. The main farmhouse is grade II Listed. There are several modern agricultural buildings to the south of the main farmhouse as well as a second dwelling. The site occupies an elevated position and there is a long driveway from the road.

The site is not within a flood plain or other designated area but is within the Phosphorous Sensitive Catchment Area of the River Usk SAC.

#### 1.2 Proposal Description

The application seeks the erection of a steel framed portal building to the south of the existing farm buildings. The new shed would measure approximately 12 metres by 18 metres and would be clad in profiled metal sheeting, 'Juniper Green' in colour. It is proposed that spring water will be abstracted at the farm and that the new shed will be used as a canning plant for the spring water. The water is already extracted at the farm in a 10,000 litre holding tank travelling 800m to the farm buildings through a 25ml pipe, a situation that has been in place for 60 years. The canning system to be installed will allow 1000 cans to be filled per hour. As a result of this proposal there will be additional deliveries to the site. The applicants estimate that this will involve one additional delivery per week for a HGV with the product being removed by vans of which they would assume an additional 3 movements per week.

## 2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
DM/2020/00621	A fodder and muck store.	Acceptable	08.07.2020
DC/2006/00648	Conversion of traditional barn to dwelling (House B) and installation of septic tank	Withdrawn	25.09.2007
DC/2006/00646	Conversion of traditional barn to dwelling (house A) and installation of septic tank	Withdrawn	25.09.2007
DC/2006/00633	Conversion of traditional barn to dwelling (house A)	Withdrawn	18.09.2008
DC/2006/00644	Conversion of traditional barn to dwelling (House B)	Withdrawn	18.09.2008
DC/2014/00715	Discharge of conditions 4 (slate sample), 6 (rooflights), 12 (details of windows and doors), 13 (paint schedule for external timber) & 17 (programme of recording and analysis) of Listed Building Consent DC/2009/00420	Withdrawn	16.07.2014
DC/2014/00716	Discharge of conditions 4, 9, 10, 11 and 14 of planning permission DC/2009/00418	Withdrawn	16.07.2014
DC/2009/00417	Conversion of traditional barn to dwelling - Barn A	Approved	16.06.2009
DC/2009/00418	Conversion of redundant agricultural building to residential use - Barn B	Approved	16.06.2009



DC/2011/00627	Agricultural Building for storage and livestock	Approved	08.08.2011
DC/2009/00416	Conversion of traditional barn to dwelling - barn A	Approved	01.07.2009
DC/2009/00420	Conversion of redundant agricultural building to residential use - barn B	Approved	01.07.2009

### **3.0 LOCAL DEVELOPMENT PLAN POLICIES**

#### **Strategic Policies**

S10 LDP Rural Enterprise  
S12 LDP Efficient Resource Use and Flood Risk  
S13 LDP Landscape, Green Infrastructure and the Natural Environment  
S16 LDP Transport  
S17 LDP Place Making and Design

#### **Development Management Policies**

RE3 LDP Agricultural Diversification  
RE4 LDP New Agricultural and Forestry Buildings  
SD4 LDP Sustainable Drainage  
LC1 LDP New Built Development in the Open Countryside  
LC5 LDP Protection and Enhancement of Landscape Character  
EP1 LDP Amenity and Environmental Protection  
MV1 LDP Proposed Developments and Highway Considerations  
DES1 LDP General Design Considerations

#### National Planning Policies

Technical Advice Note 6 - Planning for Sustainable Rural Communities (2010):  
<http://gov.wales/docs/desh/policy/100722tan6en.pdf>

### **4.0 NATIONAL PLANNING POLICY**

#### **Future Wales - the national plan 2040**

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales - the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

#### **Planning Policy Wales (PPW) Edition 11**

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and

cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

## **5.0 REPRESENTATIONS**

### 5.1 Consultation Replies

**Llantrisant Fawr Community Council** - No comments received.

**MCC Heritage** - No objection

#### **MCC Highways**

Although the highway authority has no objections to the application as submitted, the highway authority has concerns that any significant increase in future production, distribution and diversification associated with the proposal, such as retail sales and visitors etc would significantly increase the traffic generation and may well lead to an adverse impact on the safety and capacity of the immediate local network, this is particularly the case where retail use cannot be adequately quantified or managed.

The highway authority would recommend deferral of the application pending the submission of a detailed business / management plan clearly outlining any future expansion and increase in production, distribution and diversification associated with the proposal.

**NRW** - No objection.

Recognising the specific nature of the application submitted, we are satisfied that it is unlikely to increase the amount of phosphorus entering the catchment. Therefore, we are satisfied that the proposal is not likely to have a significant effect on the River Usk SAC.

We note the proposal is to connect the foul drainage to existing septic tank. We do not have a record of this septic tank being registered with us. The applicant should note, it is a legal requirement to apply for an environmental permit or register an exemption with us.

### 5.2 Neighbour Notification

Responses in favour and objection have been received, these are available in full on the website, however have been summarised as:

Letters of objection have been received from three addresses:

Disruption to existing water supply

Increase in traffic

Increase in noise now and in the future, and what protection is in place for future noise disturbance

How sustainable is this as a business model in a time of changing climate?

Letters support from three addresses have been received:

An ideal opportunity for diversification on the local farm

I understand that it will bring no added traffic/congestion to the area

It will enhance the local business community sympathetically

It will provide employment opportunities, and will improve the local community

It will support the local environment, creating an eco-hub and development of the orchard including tree planting.

We believe inspiring initiatives such as these should be encouraged by the local council.

### 5.3 Other Representations

None Received

## 5.4 Local Member Representations

None Received

Please note all representations can be read in full on the Council's website:

<https://planningonline.monmouthshire.gov.uk/online-applications/?lang=EN>

## **6.0 EVALUATION**

### **6.1 Principle of Development**

The proposed building falls to be considered under Policies S10 and RE4 of the Local Development Plan (LDP). Policy S10 generally supports rural enterprise and states that:

Development to enable the diversification of the rural economy will be permitted outside settlement development boundaries where it is of a scale and type compatible with the surrounding area and will cause no unacceptable harm to the surrounding landscape, historic and cultural heritage, biodiversity or local amenity value. Development must re-use or adapt existing buildings where possible. There are exceptional circumstances in which new buildings may be permitted outside settlement boundaries to assist in the diversification of the rural economy. In this case the exceptions are Policy RE1 Employment within villages or adjoining village development boundaries.

RE3 Agricultural Diversification

RE4 New Agricultural buildings.

In this case it is Policy RE3 that is most relevant.

Policy RE3 - Agricultural Diversification

Development proposals which make a positive contribution to agriculture or its diversification will be permitted where the new use or building meets the following criteria:

- a) the proposed non-agricultural development is run in conjunction with, and is complementary to, the agricultural activities of the enterprise;
- b) the proposal is supported by an appropriate business case which demonstrates the link to existing business activity and the benefits of the scheme in terms of sustaining employment / the rural economy;
- c) in relation to new build, the applicant must demonstrate that there are no existing buildings suitable for conversion / re-use in preference to new build;
- d) with regard to diversification proposals for visitor accommodation, new build will only be permitted where it consists of the substantial rebuild of a building within the curtilage of an existing and occupied farm property, as specified in Policy T2;
- e) where rebuild is permitted under criteria c) and d) any rebuilding work should respect or be in sympathy with the local and traditional characteristics of the building;
- f) proposals for new built development meet the detailed criteria set out in Policy LC1;
- g) proposals for renewable energy schemes meet the criteria set out in Policy SD1.

In this case the proposed water canning production will be run in conjunction with the main farming activities in the site, predominantly sheep farming. As with all family farms, input costs are increasing and profits are being squeezed. As such WG policy advice is to look at all possible diversification options. With the presence of natural springs rising on the farm there is the possibility to utilise this water. It is proposed for the works to be part of the existing farm business. A Strategic Plan has been submitted by the applicant which demonstrates the link of the new Spring Water production and canning with the existing farm enterprise as a way of farm diversification. The applicant has demonstrated that there are no existing buildings on the farm that could be used for the production and canning of the product.

More specifically, Policy RE4 relates to new agricultural buildings and allows new buildings as well as any means of access provided that they meet the following requirements:

- a) the building or access is reasonably required for agricultural or forestry purposes;

- b) adequate provision is made for the disposal of foul and surface water and any animal waste without risk to features;
- c) the proposal complies with Policy LC1.

In this case, the building is required for farm diversification and there will be no additional animal waste as a result of this proposal. The details of the surface and foul water will be discussed in greater detail later in this report.

Policy LC1 relates to new build development in the open countryside;

There is a presumption against new built development in the open countryside, unless justified under national planning policy and/or LDP policies S10, RE3, RE4, RE5, RE6, T2 and T3 for the purposes of agriculture, forestry, 'one planet development', rural enterprise, rural / agricultural diversification schemes or recreation, leisure or tourism. In such exceptional circumstances, new built development will only be permitted where all the following criteria are met:

- a) the proposal is satisfactorily assimilated into the landscape and complies with Policy LC5;
- b) new buildings are wherever possible located within or close to existing groups of buildings;
- c) the development design is of a form, bulk, size, layout and scale that respects the character of the surrounding countryside; and
- d) the development will have no unacceptable adverse impact on landscape, historic / cultural or geological heritage, biodiversity or local amenity value.

In this case the proposed building is relatively small when compared to the adjoining agricultural buildings. The new building will be seen on the context of the other farm buildings and will be finished in similar materials. The new building will have very little visual impact on the wider landscape.

Policy LC5 requires that;

Development will be permitted provided it would not have an unacceptable adverse effect on the special character or quality of Monmouthshire's landscape in terms of its visual, historic, geological, ecological or cultural aspects by:

- a) Causing significant visual intrusion;
- b) Causing significant adverse change in the character of the built or natural landscape;
- c) Being insensitively and unsympathetically sited within the landscape;
- d) Introducing or intensifying a use which is incompatible with its location;
- e) Failing to harmonise with, or enhance the landform and landscape; and /or
- f) Losing or failing to incorporate important traditional features, patterns, structures and layout of settlements and landscapes of both the built and natural environment

In this case a small agricultural style building will be located within the existing farm complex and it will be used for farm diversification purposes. Its scale and type is compatible with the surrounding area and will cause no unacceptable harm to the surrounding landscape. The application does seek the erection of a new building as there are on other suitable buildings on the farm that could be used, however the scale of the new building is relatively small especially when compared with the existing modern agricultural buildings that are on the site.

In this case the principle of a new building within the existing farm complex for the purposes of farm diversification is considered acceptable in policy terms.

## **6.2 Sustainability**

### **6.2.1 Good Design**

The proposed building would measure 18m by 12m with a ridge height of 6m. It would be finished in insulated profile metal sheeting coloured dark green and would have roller shutter doors. The building would have the same type of appearance to the adjacent farm building but be smaller in scale. The design of the building is considered to be appropriate for its setting and function. It is considered to be in keeping with the local vernacular and the materials will help the building blend

in with the rural surroundings. The proposed building is therefore considered to meet the requirements of LDP Policy DES1.

### 6.2.2 Energy

The applicants have submitted a statement which states "We are looking to construct the building and the associated works to be as sustainable as possible. We will be looking to can the water in a Carbon Neutral way whilst utilising local sustainable resources."

### **6.3 Landscape**

The building would be sited to the south west of the existing farm buildings and would utilise the existing farm access. The building would be viewed against the backdrop of existing farm buildings and would be smaller in scale. The use of juniper green cladding would also help the building to assimilate into its surroundings. The building would be sited next to the existing yard and the proposal would not require the removal of any significant vegetation. On this basis it is considered that the proposed building meets the requirements of LDP policies LC1 and LC5.

### **6.4 Biodiversity**

It is necessary to secure an ecological net gain. Planning Policy Wales (PPW) 11 sets out that planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity" (para 6.4.5 refers). This policy and subsequent policies in Chapter 6 of PPW 11 respond to the Section 6 Duty of the Environment (Wales) Act 2016. This proposal includes measures in the form of additional planting to improve the existing orchard to enhance biodiversity. Native fruit trees would be planted which would offer feed shelter and habitat to local wildlife. These enhancements are shown on the site plan. These are considered acceptable biodiversity net benefit measures for an application of this size. The proposal therefore accords with the objectives of Policy NE1 of the LDP.

### **6.5 Impact on Amenity**

The nearest residential property to this site is Derwyn Meylen which is almost 500 metres to the south of the site and would not be adversely affected by the proposal because of this intervening distance and vegetation. Both Tump Farm and Dwr Gul are in the applicant's ownership. The proposal would not affect the occupiers of any other residential properties and therefore meets the requirements of LDP policies DES1 (d) and EP1.

### **6.6 Highways**

#### 6.7.2 Access / Highway Safety

The new building would utilise the existing access that is shared by the farm and the two residential properties associated with it. The farm is accessed via a substantial hard surfaced access drive accessed directly from the adjacent public highway, route R113 a classified un-numbered road. Route R113 is considered a primary distribution route providing access from the outlying rural communities in between Usk, Llangybi, Chepstow and Caldicot. The highway authority considers that the site is reasonably well sited in terms of transport accessibility and the immediate local network is considered capable of accommodating the increased vehicle movements associated with such a low key manufacturing and distribution business that generates only one HGV delivery and three small van distributions per week.

Although the highway authority has no objections to the application as submitted, highway officers have concerns that any significant increase in future production, distribution and diversification associated with the proposal, such as retail sales and visitors etc would significantly increase the traffic generation and may well lead to an adverse impact on the safety and capacity of the immediate local network; this is particularly the case where retail use cannot be adequately

quantified or managed. Planning officers however can only consider the application that is before them. If the business was to expand in the future – for instance by moving production to a different (larger) building on the farm or by building an extension to the currently proposed unit, a planning application would be required and that would be determined on its merits.

## **6.7 Flooding**

Based on the Development Advice Maps associated with Technical Advice Note (TAN) 15: Development and Flood Risk, the site is outside of any allocated flood zone and is therefore unlikely to flood.

## **6.8 Drainage**

### 6.8.1 Foul Drainage

There would be no toilet facility provided in the new building and the proposal would not result in any additional people visiting the site. The application site is within the catchment of the River Usk Special Area of Conservation (SAC). In line with NRW Planning Advice (July 2022), under the Habitats Regulations, planning authorities must consider the phosphorus impact of proposed developments on water quality within SAC river catchments. NRW state that recognising the specific nature of the application submitted, they are satisfied that it is unlikely to increase the amount of phosphorus entering the catchment. They are therefore satisfied that the proposal is not likely to have a significant effect on the River Usk SAC.

As a result the application has been screened out.

Any Liquor waste produced from the process would be collected in a new tank situated beneath the building footprint which would be emptied when required. It is not envisaged that there would be large quantities of liquor left over for removal, as such the tank would be monitored and emptied when it reaches 75% capacity. It is envisaged that the tank would be 7500l in capacity. This may require an environmental permit or exemption from NRW under The Environmental Permitting (England and Wales) Regulations 2016.

### 6.8.2 Surface Water Drainage

If the application is approved, the scheme would require a sustainable drainage system designed in accordance with the Welsh Government Standards for sustainable drainage. The scheme would require approval by the SuDS Approving Body (SAB) prior to any construction work commencing.

## **6.9 Response to the Representations of Third Parties and/or Community/Town Council**

Local residents are concerned that the proposal would disrupt local water supplies. At present the spring water is piped into the existing yard and used to water the livestock, which has been the situation for considerable time. The increase in demand from the water extraction due to the canning process would be minimal especially as it is expected that the number of livestock on the farm would be reduced over the coming years. At present abstraction is less than the prescribed threshold from NRW. If the applicant intends to abstract more than 20m<sup>3</sup>/day of water, an abstraction licence would be required from NRW. However, the applicant confirms, "We will not be abstracting more than this, indeed it will be substantially lower - with a maximum capacity likely to be around just a tenth of the limit needed for a license. We have consulted with NRW over the requirements."

The abstraction of water from the water course is managed and protected through separate legislation administered by NRW.

A 50m service trench is proposed to provide services from the existing connections at the farm to the new building, including power/water and drainage. This will be underground and will not cause any visual intrusion or changes in ground levels.

The increase in traffic resulting from this proposal is very low compared to the traffic generated by the operating farm. There would only be one additional delivery per week and three small vans carrying out deliveries. The Highway Authority has offered no objection to the application as submitted.

There would be no detrimental increase in noise resulting from the canning operation, the machine will only be used to put the lids on the cans and this will be relatively quiet compared to the general background of the existing livestock farm.

## **6.10 Well-Being of Future Generations (Wales) Act 2015**

6.10.1 The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

## **7.0 RECOMMENDATION: APPROVE**

### **Conditions :**

1 This development shall be begun within 5 years from the date of this permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

2 The development shall be carried out in accordance with the list of approved plans set out in the table below.

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

3 The Biodiversity net benefit measures as illustrated the Site Plan 2 shall be implemented in full and shall be retained as such in perpetuity. Evidence of compliance with the plan in the form of georeferenced photographs must be provided to the LPA no more than three months later than the first beneficial use of the building.

Reason: To ensure appropriate mitigation for protected and priority species and provide biodiversity net benefit ensuring compliance with PPW 11, the Environment (Wales) Act 2016 and LDP policy NE1

4. The proposed canning process, including storage and ancillary processes shall take place within the approved building only.

Reason: to limit the scope of this permission having regards to local amenity and highway safety.

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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 16 Awst 2022

gan I Stevens BA (Hons) MCD MRTPI

Arolygydd a benodir gan Weinidogion  
Cymru

Dyddiad: 28/09/2022

## Appeal Decision

Site visit made on 16 August 2022

by I Stevens BA (Hons) MCD MRTPI

an Inspector appointed by the Welsh  
Ministers

Date: 28/09/2022

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**Appeal Ref: CAS-01509-P1Z2X3**

**Site address: 2-4 Monnow Street, Monmouth, Monmouthshire, NP25 3EE**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Henry Danter against the decision of Monmouthshire County Council.
  - The development proposed is change of use of former music shop to adult gaming centre.
- 

### Decision

1. The appeal is allowed and planning permission is granted for change of use of former music shop to adult gaming centre at 2-4 Monnow Street, Monmouth, Monmouthshire, NP25 3EE, in accordance with the terms of the application, Ref DM/2021/00050, dated 15 February 2021, subject to the conditions set out in the schedule to this decision letter.

### Procedural Matter

2. Evidence was originally due to be heard at a Hearing. However, having regard to the fact that the principal matters of dispute relate to the change of use at the appeal property, the appeal has proceeded under the written representations procedure without any prejudice to the parties' cases. I note the appellants' concerns regarding this approach. Nevertheless, the planning merits of the case have been clearly outlined by the appellant and the principal matters of dispute do not require cross examination.

### Main Issue

3. The main issue is the effect of the proposed development on the vitality and viability of Monmouth town centre.

### Reasons

4. The appeal property is a vacant ground-floor unit, formerly a music shop, in Monmouth town centre. It is located at the corner junction of Agincourt Street and Monnow Street, having a dual aspect frontage that also faces towards Agincourt Square. The proposal

would change the use of the unit from retail (A1 use class) to an adult gaming centre (sui generis).

5. The property is located in the Central Shopping Area (CSA) of Monmouth town centre, as defined in the Monmouthshire Local Development Plan (LDP), adopted in February 2014. Policy RET2 of the LDP requires proposals within CSAs to satisfy relevant criteria. Criterion a) permits proposals which will safeguard the vitality, attractiveness and viability of the CSA. Criterion b) permits changes of use from classes A1-A3 on the ground floor with street frontage to other uses, provided it is demonstrated that criterion a) can be met by attracting footfall. The LDP supporting text recognises that uses other than retail can add to a centre's diversity and may be acceptable where it does not harm the vitality, attractiveness or viability of centres.
6. There are a mix of retail and non-retail uses in the immediate area, including building societies, public houses/restaurants, a clothes shop, charity shop and hairdressers amongst others. This mix contributes to the vitality of the shopping area, where during my late afternoon site visit, I observed the town centre was busy. There was a steady stream of road traffic and pedestrian footfall along Monnow Street, where efforts to enhance the shopping experience through outdoor seating and planters was evident, together with traffic management measures which require vehicles to stop near the appeal building and take turns to pass. Several people were also sitting at a nearby public house in Agincourt Square. I recognise these observations were a snapshot in time, but the overall impression was of a healthy town centre.
7. The CSA designation reflects Planning Policy Wales (PPW) (Edition 11, 2021), which states that vibrant and viable centres are distinguished by a diversity of activity and uses which should contribute towards a centre's well-being and success, whilst also reducing the need to travel. PPW adds that leisure and entertainment uses can benefit retail and commercial centres, and with adequate attention to safeguarding amenities can contribute to a successful evening economy.
8. Several representations refer to the negative effects that adult gaming centres have on retail vitality in shopping areas. The Council states that it has not been evidenced how the proposal would attract footfall. In this instance, securing a leisure use for the appeal property would not be uncommon in a town centre, as the business would rely on footfall from visitors who attend the premises. There is no substantive evidence before me that the use would not attract footfall or discourage linked trips.
9. I recognise that the use of the adult gaming centre would be restricted to people over a certain age. However, I have not been provided with tangible evidence that this would lead to a reduced footfall in the town, or impact harmfully on the number of visitors to the town centre. Other businesses and services in the town centre may also have targeted audiences that attract different footfall levels. There is no empirical evidence before me that the proposal would appeal only to certain social groups, or that the proposed leisure use would necessarily harm the vitality and viability of the CSA. The proposal would bring a leisure use to the town centre and the appellant has confirmed that the premises would be open during the day and into the evening. It has scope to diversify the leisure offer in the town centre and complement efforts to develop the evening economy. I am therefore satisfied that the proposal would attract footfall, as required by Policy RET2 of the LDP.
10. I have not been informed of any other adult gaming centres in Monmouth Town Centre. I recognise there are other betting shops in the town centre and representations have referred to at least 2 units elsewhere. I note comments about the presence of other gaming machines in the betting shops. Nevertheless, there are differences between adult gaming centres and betting shops, not least in the main services offered. In any case,

given the diversity of uses within the CSA I did not experience a sense of over dominance of related gambling-related uses. I have seen no evidence that the proposal would lead to a cluster or concentration of similar uses, being the only such use in this immediate area. Given its location in the CSA, I do not consider that the proposal would lead to a fragmentation of the shopping frontage in this location.

11. While I also understand the concerns raised in respect of potential adverse social impacts of an adult gaming centre, the operation of the business would be controlled by other legislation, including the licensing regime which requires certain measures such as age restrictions and restricting people's ability to look into the shop. In planning terms, and on the evidence before me, I am not convinced that there would be demonstrable social harm arising from the proposed use, which would weigh against it.
12. The proposed adult gaming centre would retain the shop front and areas of glazing that are particularly evident along the wider frontage of Monnow Street. I accept that visual interest in the window display may be limited, given the appellant's need under law to ensure that people cannot look into the unit from outside. However, the obscuring of shopfront windows is not confined to adult amusement centres or betting shops. The adjacent building society had large displays in its window, which restricted views into the premises. Other A-class uses may have screening in their shopfront windows. In this regard, an active frontage has a broader function than being able to look through a shop window into a premises. The proposal would have the associated activity of people coming and going, thereby maintaining a level of footfall and contributing to the ground-floor activities that is characteristic of other town centre units, thereby contributing to the vitality and viability of the town centre.
13. I observed vacant units in the town centre, including around Agincourt Square. I do not have details of vacancy rates in the town centre, or how long other properties have been vacant in this area. I note that several representations refer to the lack of evidence on attempts to market the appeal property for alternative uses. The marketing of units is not a specific requirement of Policy RET2. The appeal site is located outside of the Primary Shopping Frontage, where different retail policy requirements apply. The Council states that the retail designation of the appeal property will be reviewed as part of the Replacement LDP process. However, I have little information on this approach or the status of the emerging plan and therefore give this very little weight. In any case, the proposal is assessed on its individual merits having regard to the relevant LDP policies and material considerations.
14. I conclude that the proposal would safeguard the vitality and viability of Monmouth town centre. The proposal would therefore comply with Policy RET2 of the Monmouthshire LDP, which seeks to ensure that ground floor premises are retained for uses that will sustain/enhance the vitality, attractiveness and viability of CSAs and complement their shopping role/character.

### **Other Matters**

15. The appeal property is in the Monmouth Conservation Area and the Council has confirmed that the building is Grade II listed. I have had regard to advice in the Monmouth Conservation Area Appraisal & Management Proposals (2016). The Council's Conservation officer raises no objection to the proposal. Any proposed new signage would be subject to a separate application and does not form part of the appeal before me. Given the proposal is for a change of use only in a town centre location, with the Council confirming that no physical alterations to the unit are proposed, I am satisfied that the character and appearance of the Conservation Area would be preserved.

16. The River Wye is a Special Area of Conservation (SAC) and is protected under the conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). The appeal property is in the phosphorous sensitive area of the Wye Valley Catchment. Given the nature of the appeal proposal, the Council is satisfied that it is unlikely to increase the amount of phosphorous entering the catchment area and is unlikely to have a significant effect on the SAC. I see no reason to disagree with the Council on this matter.

### **Conditions**

17. I have considered the conditions recommended by the Council in the light of advice in Welsh Government Circular 016/2014 'The Use of Planning Conditions for Development Management'. Conditions regarding the standard time limit and development being carried out in accordance with approved plans are reasonable and necessary. A condition requiring a noise management plan is a reasonable measure to set out how noise generated from the premises would be managed, in the amenity interests of neighbouring properties.
18. While no physical alterations are proposed, and no ecological information was requested, it is necessary to consider national planning policy. Future Wales: The National Plan 2040 (February 2021) requires development proposals to demonstrate action towards securing the maintenance and biodiversity (to provide a net benefit) in all cases. A biodiversity enhancement condition is therefore necessary to ensure the proposal complies with national planning policy.

### **Conclusion**

19. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.
20. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

*I Stevens*

Inspector

## SCHEDULE OF CONDITIONS

- 1) This development shall be begun within 5 years from the date of this permission.  
Reason: To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) The development shall be carried out in accordance with the following approved plans: Site Plan and Floor Plan.  
Reason: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.
- 3) Prior to the first occupation of the adult gaming centre use, a noise management plan detailing how noise from the premises will be managed shall be submitted to and approved in writing by the Local Planning Authority. The adult gaming centre hereby approved shall only be operated in accordance with the approved noise management plan in perpetuity.  
Reason: To protect the amenity of neighbouring properties and to ensure compliance with Policy EP1 of the Monmouthshire Local Development Plan.
- 4) No development shall take place until a scheme for biodiversity enhancement has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.  
Reason: Future Wales, Planning Policy Wales and Policy NE1 of the Monmouthshire Local Development Plan requires all development to maintain and enhance biodiversity.

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