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County Hall
Rhadyr
Usk
NP15 1GA

Tuesday, 3 January 2023

Notice of meeting:

Planning Committee

Wednesday, 11th January, 2023 at 2.00 pm
The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA and
remote attendance

AGENDA

Item No	Item	Pages
1.	Apologies for Absence.	
2.	Declarations of Interest.	
3.	To confirm for accuracy the minutes of the previous meeting.	1 - 8
4.	To consider the following Planning Application reports from the Chief Officer, Communities and Place (copies attached):	
4.1.	Application 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. Visitor Centre, Llandegfedd Visitor Centre, Croes-gweddyn Road, Coed-y-Paen, Monmouthshire.	9 - 48
4.2.	Application 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. Water Sports Centre, Llandegfedd Visitor Centre, Croes-gweddyn Road, Coed-y-Paen, Monmouthshire.	49 - 90
4.3.	Application DM/2021/00036 - Proposed office, reception, shop and managers dwelling. Land south of Alice Springs, Kemeys Road, Kemeys Commander, Usk, Monmouthshire.	91 - 98
5.	FOR INFORMATION - The Planning Inspectorate - Appeals Decisions Received:	
5.1.	60 Old Barn Way, Abergavenny.	99 - 102

5.2.	Arosfa, Llanfair Discoed, Chepstow.	103 - 106
5.3.	The Cotlands, Beacon Road, Trellech.	107 - 114
5.4.	Little Cider Mill Barn, Tre-Herbert Road, Croesyceiliog, Cwmbran.	115 - 118

Paul Matthews
Chief Executive

MONMOUTHSHIRE COUNTY COUNCIL

THE CONSTITUTION OF THE PLANNING COMMITTEE IS AS FOLLOWS:

County Councillor Jill Bond	West End;	Welsh Labour/Llafur Cymru
County Councillor Fay Bromfield	Llangybi Fawr;	Welsh Conservative Party
County Councillor Emma Bryn	Wyesham;	Independent Group
County Councillor Jan Butler	Goetre Fawr;	Welsh Conservative Party
County Councillor Ben Callard	Llanfoist & Govilon;	Welsh Labour/Llafur Cymru
County Councillor John Crook	Magor East with Undy;	Welsh Labour/Llafur Cymru
County Councillor Tony Easson	Dewstow;	Welsh Labour/Llafur Cymru
County Councillor Steven Garratt	Overmonnow;	Welsh Labour/Llafur Cymru
County Councillor Meirion Howells	Llanbadoc & Usk;	Independent Group
County Councillor Su McConnel	Croesonen;	Welsh Labour/Llafur Cymru
County Councillor Jayne McKenna	Mitchel Troy and Trellech United;	Welsh Conservative Party
County Councillor Phil Murphy	Caerwent;	Welsh Conservative Party
County Councillor Maureen Powell	Pen Y Fal;	Welsh Conservative Party
County Councillor Sue Riley	Bulwark and Thornwell;	Welsh Labour/Llafur Cymru
County Councillor Dale Rooke	Chepstow Castle & Larkfield;	Welsh Labour/Llafur Cymru
County Councillor Ann Webb	St Arvans;	Welsh Conservative Party

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Public Information

Any person wishing to speak at Planning Committee must do so by registering with Democratic Services by no later than 12 noon two working days before the meeting. Details regarding public speaking can be found within this agenda

Access to paper copies of agendas and reports

A copy of this agenda and relevant reports can be made available to members of the public attending a meeting by requesting a copy from Democratic Services on 01633 644219. Please note that we must receive 24 hours notice prior to the meeting in order to provide you with a hard copy of this agenda.

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<https://democracy.monmouthshire.gov.uk/ieListMeetings.aspx?Committeeld=141>

This will take you to the page relating to all Planning Committee meetings. Please click on the relevant Planning Committee meeting. You will then find the link to view the meeting on this page. Please click the link to view the meeting.

Welsh Language

The Council welcomes contributions from members of the public through the medium of Welsh or English. We respectfully ask that you provide us with 5 days notice prior to the meeting should you wish to speak in Welsh so we can accommodate your needs.

Aims and Values of Monmouthshire County Council

Our purpose

Building Sustainable and Resilient Communities

Objectives we are working towards

- Giving people the best possible start in life
- A thriving and connected county
- Maximise the Potential of the natural and built environment
- Lifelong well-being
- A future focused council

Our Values

Openness. We are open and honest. People have the chance to get involved in decisions that affect them, tell us what matters and do things for themselves/their communities. If we cannot do something to help, we'll say so; if it will take a while to get the answer we'll explain why; if we can't answer immediately we'll try to connect you to the people who can help – building trust and engagement is a key foundation.

Fairness. We provide fair chances, to help people and communities thrive. If something does not seem fair, we will listen and help explain why. We will always try to treat everyone fairly and consistently. We cannot always make everyone happy, but will commit to listening and explaining why we did what we did.

Flexibility. We will continue to change and be flexible to enable delivery of the most effective and efficient services. This means a genuine commitment to working with everyone to embrace new ways of working.

Teamwork. We will work with you and our partners to support and inspire everyone to get involved so we can achieve great things together. We don't see ourselves as the 'fixers' or problem-solvers, but we will make the best of the ideas, assets and resources available to make sure we do the things that most positively impact our people and places.

Kindness: We will show kindness to all those we work with putting the importance of relationships and the connections we have with one another at the heart of all interactions.

Purpose

The purpose of the attached reports and associated officer presentation to the Committee is to allow the Planning Committee to make a decision on each application in the attached schedule, having weighed up the various material planning considerations.

The Planning Committee has delegated powers to make decisions on planning applications. The reports contained in this schedule assess the proposed development against relevant planning policy and other material planning considerations, and take into consideration all consultation responses received. Each report concludes with an officer recommendation to the Planning Committee on whether or not officers consider planning permission should be granted (with suggested planning conditions where appropriate), or refused (with suggested reasons for refusal).

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the Monmouthshire Local Development Plan 2011-2021 (adopted February 2014), unless material planning considerations indicate otherwise.

Section 2(2) of the Planning (Wales) Act 2015 states that the planning function must be exercised, as part of carrying out sustainable development in accordance with the Well-being of Future Generations (Wales) Act 2015, for the purpose of ensuring that the development and use of land contribute to improving the economic, social, environmental and cultural well-being of Wales.

The decisions made are expected to benefit the County and our communities by allowing good quality development in the right locations, and resisting development that is inappropriate, poor quality or in the wrong location. There is a direct link to the Council's objective of building sustainable, resilient communities.

Decision-making

Applications can be granted subject to planning conditions. Conditions must meet all of the following criteria:

- Necessary to make the proposed development acceptable;
- Relevant to planning legislation (i.e. a planning consideration);
- Relevant to the proposed development in question;
- Precise;
- Enforceable; and
- Reasonable in all other respects.

Applications can be granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended). This secures planning obligations to offset the impacts of the proposed development. However, in order for these planning obligations to be lawful, they must meet all of the following criteria:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The applicant has a statutory right of appeal against the refusal of permission in most cases, or against the imposition of planning conditions, or against the failure of the Council to determine an application within the statutory time period. There is no third party right of appeal against a decision.

The Planning Committee may make decisions that are contrary to the officer recommendation. However, reasons must be provided for such decisions, and the decision must be based on the Local Development Plan (LDP) and/or material planning considerations. Should such a decision be challenged at appeal, Committee Members will be required to defend their decision throughout the appeal process.

Planning policy context

Future Wales – the national plan 2040 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.

Monmouthshire's Local Development Plan (LDP) sets out the Council's vision and objectives for the development and use of land in Monmouthshire, together with the policies and proposals to implement them over a 10 year period to 2021. The plan area excludes that part of the County contained within the Brecon Beacons National Park. It has a fundamental role in delivering sustainable development. In seeking to achieve this it sets out a framework for the development and use of land and for the protection of the environment. It also guides and facilitates investment decisions as well as the delivery of services and infrastructure. It determines the level of provision and location of new housing, employment and other uses and sets the framework for considering all land use proposals during the plan period. The LDP contains over-arching policies on development and design. Rather than repeat these for each application, the full text is set out below for Members' assistance.

Policy EP1 - Amenity and Environmental Protection

Development, including proposals for new buildings, extensions to existing buildings and advertisements, should have regard to the privacy, amenity and health of occupiers of neighbouring properties. 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:

- Air pollution;
- Light or noise pollution;
- Water pollution;
- Contamination;
- Land instability;
- Or any identified risk to public health or safety.

Policy DES1 – General Design Considerations

All development should be of a high quality sustainable design and respect the local character and distinctiveness of Monmouthshire's built, historic and natural environment. Development proposals will be required to:

- a) Ensure a safe, secure, pleasant and convenient environment that is accessible to all members of the community, supports the principles of community safety and encourages walking and cycling;
- b) Contribute towards sense of place whilst ensuring that the amount of development and its intensity is compatible with existing uses;
- c) Respect the existing form, scale, siting, massing, materials and layout of its setting and any neighbouring quality buildings;
- d) Maintain reasonable levels of privacy and amenity of occupiers of neighbouring properties, where applicable;
- e) Respect built and natural views and panoramas where they include historical features and/or attractive or distinctive built environment or landscape;

- f) Use building techniques, decoration, styles and lighting to enhance the appearance of the proposal having regard to texture, colour, pattern, durability and craftsmanship in the use of materials;
- g) Incorporate and, where possible enhance existing features that are of historical, visual or nature conservation value and use the vernacular tradition where appropriate;
- h) Include landscape proposals for new buildings and land uses in order that they integrate into their surroundings, taking into account the appearance of the existing landscape and its intrinsic character, as defined through the LANDMAP process. Landscaping should take into account, and where appropriate retain, existing trees and hedgerows;
- i) Make the most efficient use of land compatible with the above criteria, including that the minimum net density of residential development should be 30 dwellings per hectare, subject to criterion l) below;
- j) Achieve a climate responsive and resource efficient design. Consideration should be given to location, orientation, density, layout, built form and landscaping and to energy efficiency and the use of renewable energy, including materials and technology;
- k) Foster inclusive design;
- l) Ensure that existing residential areas characterised by high standards of privacy and spaciousness are protected from overdevelopment and insensitive or inappropriate infilling.

Other key relevant LDP policies will be referred to in the officer report.

Supplementary Planning Guidance (SPG):

The following Supplementary Planning Guidance may also be of relevance to decision-making as a material planning consideration:

- Green Infrastructure (adopted April 2015)
- Conversion of Agricultural Buildings Design Guide (adopted April 2015)
- LDP Policy H4(g) Conversion/Rehabilitation of Buildings in the Open Countryside to Residential Use- Assessment of Re-use for Business Purposes (adopted April 2015)
- LDP Policies H5 & H6 Replacement Dwellings and Extension of Rural Dwellings in the Open Countryside (adopted April 2015)
- Abergavenny Conservation Area Appraisal (adopted March 2016)
- Caerwent Conservation Area Appraisal (adopted March 2016)
- Chepstow Conservation Area Appraisal (adopted March 2016)
- Grosmont Conservation Area Appraisal (adopted March 2016)
- Llanarth Conservation Area Appraisal (adopted March 2016)
- Llandenny Conservation Area Appraisal (adopted March 2016)
- Llandogo Conservation Area Appraisal (adopted March 2016)
- Llanover Conservation Area Appraisal (adopted March 2016)
- Llantilio Crossenny Conservation Area Appraisal (adopted March 2016)
- Magor Conservation Area Appraisal (adopted March 2016)
- Mathern Conservation Area Appraisal (adopted March 2016)
- Monmouth Conservation Area Appraisal (adopted March 2016)
- Raglan Conservation Area Appraisal (adopted March 2016)
- Shirenewton Conservation Area Appraisal (adopted March 2016)
- St Arvans Conservation Area Appraisal (adopted March 2016)
- Tintern Conservation Area Appraisal (adopted March 2016)
- Trellech Conservation Area Appraisal (adopted April 2012)
- Usk Conservation Area Appraisal (adopted March 2016)
- Whitebrook Conservation Area Appraisal (adopted March 2016)
- Domestic Garages (adopted January 2013)
- Monmouthshire Parking Standards (adopted January 2013)
- Approach to Planning Obligations (March 2013)
- Affordable Housing (revised version) (adopted July 2019)

- Renewable Energy and Energy Efficiency (adopted March 2016)
- Planning Advice Note on Wind Turbine Development Landscape and Visual Impact Assessment Requirements (adopted March 2016)
- Primary Shopping Frontages (adopted April 2016)
- Rural Conversions to a Residential or Tourism Use (Policies H4 and T2) Supplementary Planning Guidance November 2017
- Sustainable Tourism Accommodation Supplementary Guidance November 2017
- Affordable Housing Supplementary Guidance July 2019
- Infill Development Supplementary Guidance November 2019

National Planning Policy

The following national planning policy may also be of relevance to decision-making as a material planning consideration:

- Future Wales: the national plan 2040
- Planning Policy Wales (PPW) edition10 (at time of publication)
- PPW Technical Advice Notes (TAN):
 - TAN 1: Joint Housing Land Availability Studies (2015)
 - TAN 2: Planning and Affordable Housing (2006)
 - TAN 3: Simplified Planning Zones (1996)
 - TAN 4: Retailing and Town Centres (1996)
 - TAN 5: Nature Conservation and Planning (2009)
 - TAN 6: Planning for Sustainable Rural Communities (2010)
 - TAN 7: Outdoor Advertisement Control (1996)
 - TAN 8: Renewable Energy (2005)
 - TAN 9: Enforcement of Planning Control (1997)
 - TAN 10: Tree Preservation Orders (1997)
 - TAN 11: Noise (1997)
 - TAN 12: Design (2016)
 - TAN 13: Tourism (1997)
 - TAN 15: Development, flooding and coastal erosion (2021)
 - TAN 16: Sport, Recreation and Open Space (2009)
 - TAN 18: Transport (2007)
 - TAN 19: Telecommunications (2002)
 - TAN 20: The Welsh Language (2013)
 - TAN 21: Waste (2014)
 - TAN 23: Economic Development (2014)
 - TAN 24: The Historic Environment (2017)
- Minerals Technical Advice Note (MTAN) Wales 1: Aggregates (30 March 2004)
- Minerals Technical Advice Note (MTAN) Wales 2: Coal (20 January 2009)
- Welsh Government Circular 016/2014 on planning conditions

Other matters

The following other legislation may be of relevance to decision-making.

Planning (Wales) Act 2015

As of January 2016, Sections 11 and 31 of the Planning Act come into effect meaning the Welsh language is a material planning consideration.

Section 31 of the Planning Act clarifies that considerations relating to the use of the Welsh language can be taken into account by planning authorities when making decisions on applications for planning permission, so far as material to the application. The provisions do not apportion any additional weight to the Welsh language in comparison to other material

considerations. Whether or not the Welsh language is a material consideration in any planning application remains entirely at the discretion of the local planning authority, and the decision whether or not to take Welsh language issues into account should be informed by the consideration given to the Welsh language as part of the LDP preparation process. Section 11 requires the sustainability appraisal, undertaken as part of LDP preparation, to include an assessment of the likely effects of the plan on the use of Welsh language in the community. Where the authority's current single integrated plan has identified the Welsh language as a priority, the assessment should be able to demonstrate the linkage between consideration for the Welsh language and the overarching Sustainability Appraisal for the LDP, as set out in TAN 20.

The adopted Monmouthshire Local Development Plan (LDP) 2014 was subject to a sustainability appraisal, taking account of the full range of social, environmental and economic considerations, including the Welsh language. Monmouthshire has a relatively low proportion of population that speak, read or write Welsh compared with other local authorities in Wales and it was not considered necessary for the LDP to contain a specific policy to address the Welsh language. The conclusion of the assessment of the likely effects of the plan on the use of the Welsh language in the community was minimal.

Environmental Impact Assessment Regulations 2016

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 are relevant to the recommendations made. The officer report will highlight when an Environmental Statement has been submitted with an application.

Conservation of Species & Habitat Regulations 2010

Where an application site has been assessed as being a breeding site or resting place for European Protected Species, it will usually be necessary for the developer to apply for 'derogation' (a development licence) from Natural Resources Wales. Examples of EPS are all bat species, dormice and great crested newts. When considering planning applications Monmouthshire County Council as Local Planning Authority is required to have regard to the Conservation of Species & Habitat Regulations 2010 (the Habitat Regulations) and to the fact that derogations are only allowed where the three tests set out in Article 16 of the Habitats Directive are met. The three tests are set out below.

- (i) The derogation is in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.
- (ii) There is no satisfactory alternative
- (iii) The derogation is not detrimental to the maintenance of the population of the species concerned by a favourable conservation status in their natural range.

Well-being of Future Generations (Wales) Act 2015

This Act is about improving the social, economic, environmental and cultural well-being of Wales. The Act sets out a number of well-being goals:

- **A prosperous Wales:** efficient use of resources, skilled, educated people, generates wealth, provides jobs;
- **A resilient Wales:** maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change);
- **A healthier Wales:** people's physical and mental wellbeing is maximised and health impacts are understood;
- **A Wales of cohesive communities:** communities are attractive, viable, safe and well connected;
- **A globally responsible Wales:** taking account of impact on global well-being when considering local social, economic and environmental wellbeing;

- **A Wales of vibrant culture and thriving Welsh language:** culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation;
- **A more equal Wales:** people can fulfil their potential no matter what their background or circumstances.

A number of sustainable development principles are also set out:

- **Long term:** balancing short term need with long term and planning for the future;
- **Collaboration:** working together with other partners to deliver objectives;
- **Involvement:** involving those with an interest and seeking their views;
- **Prevention:** putting resources into preventing problems occurring or getting worse;
- **Integration:** positively impacting on people, economy and environment and trying to benefit all three.

The work undertaken by Local Planning Authority directly relates to promoting and ensuring sustainable development and seeks to strike a balance between the three areas: environment, economy and society.

Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. Crime and fear of crime can be a material planning consideration. This topic will be highlighted in the officer report where it forms a significant consideration for a proposal.

Equality Act 2010

The Equality Act 2010 contains a public sector equality duty to integrate consideration of equality and good relations into the regular business of public authorities. The Act identifies a number of 'protected characteristics': age; disability; gender reassignment; marriage and civil partnership; race; religion or belief; sex; and sexual orientation. Compliance is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. Due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the needs of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

Children and Families (Wales) Measure

Consultation on planning applications is open to all of our citizens regardless of their age: no targeted consultation takes place specifically aimed at children and young people. Depending on the scale of the proposed development, applications are publicised via letters to neighbouring occupiers, site notices, press notices and/or social media. People replying to consultations are not required to provide their age or any other personal data, and therefore this data is not held or recorded in any way, and responses are not separated out by age.

Climate Emergency

In May 2019 Monmouthshire County Council declared a Climate Emergency with unanimous support from Councillors. The Cabinet Member for Infrastructure and Neighbourhood Services has been appointed as the member responsible for climate change and decarbonisation.

Tackling climate change is very important, because if the planet's temperature rises by 2°C there are risks of drought, flood and poverty, impacting on hundreds of millions of people. In Monmouthshire impacts that could happen include more extreme weather events (such as storms), water shortages, droughts, species loss and risk of flooding. Planning has a key role in addressing climate change through the promotion of sustainable development.

The Council has formulated a draft action plan which will be subject to Member approval and will form the Council's response to tackling this issue. Council decisions will need to take into account the agreed action plan.

Protocol on Public Speaking at Planning Committee

Public speaking at Planning Committee will be allowed strictly in accordance with this protocol. You cannot demand to speak at the Committee as of right. The invitation to speak and the conduct of the meeting is at the discretion of the Chair of the Planning Committee and subject to the points set out below. **The conventional protocol has been modified to allow public speaking via pre-recorded videos or to attend the meeting in person and address the Planning Committee.**

Who Can Speak

Community and Town Councils

Community and town councils can address Planning Committee via a pre-recorded video or in person at the meeting.. Only elected members of community and town councils may speak. Representatives will be expected to uphold the following principles: -

(i) To observe the National Code of Local Government Conduct. (ii)

Not to introduce information that is not:

- consistent with the written representations of their council, or
- part of an application, or
- contained in the planning report or file.

When a town or community councillor has registered to speak in opposition to an application, the applicant or agent will be allowed the right of reply.

Members of the Public

Speaking will be limited to one member of the public opposing a development and one member of the public supporting a development. Where there is more than one person in opposition or support, the individuals or groups should work together to establish a spokesperson. The Chair of the Committee may exercise discretion to allow a second speaker, but only in exceptional cases where a major application generates divergent views within one 'side' of the argument (e.g. a superstore application where one spokesperson represents residents and another local retailers). Members of the public may appoint representatives to speak on their behalf.

Where no agreement is reached, the right to speak shall fall to the first person/organisation to register their request. When an objector has registered to speak the applicant or agent will be allowed the right of reply.

Speaking will be limited to applications where, by the deadline, letters of objection/support or signatures on a petition have been submitted to the Council from 5 or more separate households/organisations (in this context organisations would not include community or town councils or statutory consultees which have their own method of ensuring an appropriate application is considered at Committee) The deadline referred to above is 5pm on the day six clear working days prior to the Committee meeting. This will normally be 5pm on the Friday six clear working days before the Tuesday Planning Committee meeting. However, the deadline may be earlier, for example if there is a Bank Holiday Monday.

The number of objectors and/or supporters will be clearly stated in the officer's report for the application contained in the published agenda.

The Chair may exercise discretion to allow speaking by members of the public where an application may significantly affect a sparse rural area but less than 5 letters of objection/support have been received.

Applicants

Applicants or their appointed agents will have a right of response where members of the public or a community/town council, have registered to address committee in opposition to an application. This will also be via a pre-recorded video or in person at the Planning Committee meeting.

When is speaking permitted?

Public speaking will normally only be permitted on one occasion where applications are considered by Planning Committee. When applications are deferred and particularly when re-presented following a committee resolution to determine an application contrary to officer advice, public speaking will not normally be permitted. Regard will however be had to special circumstances on applications that may justify an exception. The final decision lies with the Chair.

Registering Requests to Speak

Speakers must register their request to speak as soon as possible, between 12 noon on the Tuesday and 12 noon on the Friday before the Committee. To register a request to speak, objectors/supporters must first have made written representations on the application.

Anyone wishing to speak must notify the Council's Democratic Services Officers of their request by calling 01633 644219 or by email to registertospeak@monmouthshire.gov.uk. Please leave a daytime telephone number. Any requests to speak that are emailed through will be acknowledged prior to the deadline for registering to speak. If you do not receive an acknowledgement before the deadline please contact Democratic Services on 01633 644219 to check that your registration has been received.

Parties are welcome to address the Planning Committee in English or Welsh, however if speakers wish to use the Welsh language they are requested to make this clear when registering to speak, and are asked to give at least 5 working days' notice to allow the Council the time to procure a simultaneous translator.

Applicants/agents and objectors/supporters are advised to stay in contact with the case officer regarding progress on the application. It is the responsibility of those wishing to speak to check when the application is to be considered by Planning Committee by contacting the Planning Office, which will be able to provide details of the likely date on which the application will be heard. The procedure for registering the request to speak is set out above.

The Council will maintain a list of persons wishing to speak at Planning Committee.

Once the request to speak has been registered by the Council the speaker must submit their pre-recorded video by midday on Monday before the Committee meeting. The video content must comply with the terms below and be no more than 4 minutes in duration. If the third party does not wish to record a video they will need to submit a script to the Council by the deadline above, that will be read out by an officer to the Committee Members at the meeting. The script shall contain no more than 500 words and shall also comply with the terms below. Speakers will also have the option to attend the meeting in person and address Planning Committee.

Content of the Speeches

Comments by the representative of the town/community council or objector, supporter or applicant/agent should be limited to matters raised in their original representations and be relevant planning issues. These include:

- Relevant national and local planning policies
- Appearance and character of the development, layout and density
- Traffic generation, highway safety and parking/servicing;
- Overshadowing, overlooking, noise disturbance, odours or other loss of amenity.

Speakers should avoid referring to matters outside the remit of the Planning Committee, such as;

- Boundary disputes, covenants and other property rights
- Personal remarks (e.g. Applicant's motives or actions to date or about members or officers)
- Rights to views or devaluation of property.

Procedure at the Planning Committee Meeting

The procedure for dealing with public speaking is set out below:

- The Chair will identify the application to be considered.
- An officer will present a summary of the application and issues with the recommendation.
- The local member if not on Planning Committee will be invited to speak for a maximum of 6 minutes by the Chair.
- If applicable, the video recording of the representative of the community or town council will then be played to Members (this shall be no more than 4 minutes in duration). Alternatively, if the community or town council has opted to submit a script of their representations that will be read out by an officer to the Committee Members at the meeting. Alternatively, the community or town council representatives may address the Planning Committee in person at the meeting for a maximum of 4 minutes.
- If applicable, the objector's video recording will then be played to the Members (this shall be no more than 4 minutes in duration) Alternatively, if a third party has opted to submit a script of their representations that will be read out by an officer to the Committee Members at the meeting. Alternatively, the objector may address the Planning Committee in person at the meeting for a maximum of 4 minutes.
- If applicable, the supporter's video recording will then be played to Members (this shall be no more than 4 minutes in duration) Alternatively, if the third party has opted to submit a script of their representations that will be read out by an officer to the Committee Members at the meeting. Alternatively, the supporter may address the Planning Committee in person at the meeting for a maximum of 4 minutes.
- If applicable, the applicant's (or appointed agent's) video recording will then be played to Members (this shall be no more than 4 minutes in duration). Alternatively, if the third party has opted to submit a script of their representations that will be read out by an officer to the Committee Members at the meeting. Alternatively, the applicant (or appointed agent) may address the Planning Committee in person at the meeting for a maximum of 4 minutes.
- Where more than one person or organisation speaks against an application, the applicant or appointed agent, shall, at the discretion of the Chair, be entitled to submit a video of their response of up to 5 minutes in duration. Alternatively, the applicant (or appointed agent) may address the Planning Committee in person at the meeting up to 5 minutes in duration.
 - Time limits will normally be strictly adhered to, however the Chair will have discretion to amend the time having regard to the circumstances of the application or those speaking.
 - Speakers may speak only once.
 - Committee Members may then raise technical questions with officers.
 -
- Planning Committee members will then debate the application, commencing with the

local member if a Member of Planning Committee. Officers will not take any further questions unless it is to advise Members about a procedural or legal issue, or where they consider Members are deviating from material planning considerations.

- Where an objector or supporter or applicant/agent community or town council has spoken on an application no further speaking by or on behalf of that group will be permitted in the event that the application is considered again at a future meeting of the Committee unless there has been a material change in the application.
- The Chair's decision regarding a procedural matter is final.
- When proposing a motion either to accept the officer recommendation or to make an amendment the Member proposing the motion shall state the motion clearly.
- When the motion has been seconded the Chair shall identify the Members who proposed and seconded the motion and repeat the motion proposed (including any additional conditions or other matters raised). The names of the proposer and seconder shall be recorded.
- Members shall decline to vote in relation to any planning application unless they have been present in the meeting of the Planning Committee throughout the full presentation and consideration of that particular application.
- Any Member who abstains from voting shall consider whether to give a reason for their abstention.
- The Legal Officer shall count the votes and announce the decision.
-
- When the motion has been seconded, the Chair shall identify the members who proposed and seconded the motion and repeat the motion proposed. The names of the proposer and seconder shall be recorded.
- A member shall decline to vote in relation to any planning application unless he or she has been present in the meeting of the Planning Committee throughout the full presentation and consideration of that application.
- Any member who abstains from voting shall consider whether to give a reason for his/her abstention.
- An officer shall count the votes and announce the decision.

Public Document Pack Agenda Item 3

MONMOUTHSHIRE COUNTY COUNCIL

**Minutes of the meeting of Planning Committee held
in The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA and remote
attendance on Tuesday, 6th December, 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, Tony Easson, Steven Garratt,
Meirion Howells, Su McConnel, Jayne McKenna, Maureen Powell
and Sue Riley

County Councillors Louise Brown and Tony Kear attended the meeting by invitation of the Chair.

OFFICERS IN ATTENDANCE:

Craig O'Connor	Head of Planning
Philip Thomas	Development Services Manager
Andrew Jones	Development Management Area Team Manager
Joanne Chase	Solicitor
Paige Moseley	Solicitor
Mark Davies	Highway Development Manager
Wendy Barnard	Democratic Services Officer

APOLOGIES:

County Councillor Ann Webb

1. Declarations of Interest

County Councillor P. Murphy declared a personal, non-prejudicial interest pursuant to the Members' Code of Conduct in respect of application DM/2018/01995, as there is a reference within the viability report to a company whereby his son is the contracts manager.

2. Confirmation of Minutes

The minutes of the Planning Committee meeting dated 1st November 2022 were confirmed and signed by the Chair. In doing so, the following points were noted:

- Applications DM/2020/00762 and DM/2020/00763 – Condition 10, a request had been made for the light spillage to be investigated.
- Application DM/2020/00763 - The total number of votes in respect of this application differed slightly to other applications, i.e., a total of 13 rather than 14.
- Application DM/2020/00763 – The Llanybi Community Council representative, bullet point 4 – 'In Planning Policy Wales 11 there is a presumption against development likely to damage a SSSI echoed by Julie James MS for Climate Change, who proposes that the policy protection afforded to the SSSI needs to

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be strengthened. The proposals will not enhance the SSSI.' A Planning Committee Member considered that the word 'proposes' should not have been used as reference was being made to the Ministerial Statement which is not a proposal. Also, the Planning Member considered that the reference 'The proposals will not enhance the SSSI' should be changed to 'the applications will not enhance and will further damage the SSSI.'

- Application DM/2020/00763, Page 7 - this should be amended to read: 'We resolved that application DM/2020/00763 be deferred to be refused.'

3. DM/2022/00484 Full planning application for the construction of 9 dwellings including means of access, drainage, landscaping, associated engineering and infrastructure works - Land at former Tythe House, Church Road, Undy, NP26 3EN

Application DM/2022/00484 had been withdrawn from the agenda following concern raised from local residents regarding the openness and transparency of the Planning Department with regard to this application. The application will therefore be reviewed for accuracy with a view to it being presented to a future meeting of the Planning Committee for determination.

4. DM/2018/01995 Outline application for a six dwelling residential development with primary access off Baron Street with some matters reserved - The Willows, 20 Baron Street, Usk, Monmouthshire, NP15 1AS

We considered the report of the application and late correspondence which was recommended for approval subject to the conditions outlined in the report, with an additional two conditions, namely:

- Compliance with approved site levels (to manage flood issues).
- A Flood Action Plan to be submitted pursuant to the reserved matters.

The local Independent Member for Llanbadoc & Usk, also a Planning Committee Member, outlined the following points:

- The owners of the Willows Garden Centre would welcome the new development as this will provide an improvement to the access road to their business.
- There have been concerns from nearby residents mainly regarding an anticipated increase in traffic flow on the new development as well as flooding issues.
- Baron Street is a very narrow single lane road with narrow pavements. The road serves a retirement complex with 28 homes. Cottages along this road do not have foundations and have incurred cracks during constructions on previous sites in this area.

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- Restrictions on delivery vehicles will be required via a full Management Plan at the construction phase at the access point at Baron Street to ensure residents and pedestrian safety.
- Concern has been raised by residents of Mill Street regarding the increased risk of flooding to homes from the rivers Usk and Olway. It was considered that further information to address this issue needed to be included in the report of the application.
- Reference was made to the levels of phosphates being produced via the garden centre after the proposed properties are built. The local Member asked whether the report was still applicable as it had been written in October 2021.
- It was questioned whether the Graig Olway treatment works would be able to accommodate the extra six properties.
- The local Independent Member read out a statement from the local Conservative Member which was outlined in late correspondence.

The Development Management Area Manager responded, as follows:

- A Traffic Management Plan will be established during the course of the works. The additional six properties are not considered to be excessive in terms of the volume of traffic on the highway network at this location.
- The Flood Consequence Assessment was undertaken in line with Natural Resources Wales (NRW), as the technical experts in this matter. It was noted that works are required to ensure that future occupiers of these dwellings, as well as surrounding neighbouring properties, are safeguarded. The development itself does not contribute to an existing problem. Officers consider that the application accords with National Planning Policy.
- The rising of the ground levels is a paramount mitigation measure.
- The garden centre phosphates levels (within the area that is outside the application site) are not known and is outside the remit of this planning application.
- Foul water will connect to Welsh Water's assets and it has been confirmed that the capacity exists to take the additional amount.

The local Conservative Member for Llanbadoc & Usk attended the meeting by invitation of the Chair and outlined the following points:

- Concern was expressed regarding the raising of the land and the effect that it might have on nearby residents.

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- It was considered that the report of the application should detail the flood risks as shown during storm Dennis and that this risk could then be covered off.

The Development Management Area Manager responded, as follows:

- Officers are satisfied that by mitigating the flooding impacts for the future occupiers the neighbouring properties that surround the development site are not being prejudiced.
- Storm Dennis occurred prior to the final Flood Consequence Assessment (FCA) being completed. However, it was noted that there was no additional risk created by allowing this development according to Natural Resources Wales.

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

- The Action Plan would be submitted at the reserved matters stage. This would be in place and agreed subject to consultation with the Authority's Flood Team and Natural Resources Wales and would need to be agreed before any development takes place.
- With regard to the Local Development Plan, all planning consents will be put into the calculation regarding predictions of future growth as part of the replacement Local Development Plan.
- Landscaping will be addressed via reserved matters, as well as any biodiversity enhancements.
- An informative could be added to encourage sustainable demolition of building material on the site.

The local Independent Member summed up as follows:

- Requested that officers check with Natural Resources Wales (NRW) that it has taken into account the impacts of flooding associated with the Olway Brook when assessing the flood information submitted by the applicant.
- He supports the establishment of a Traffic Management Plan.

The local Conservative Member summed up as follows:

- The flooding risk from the river Olway has not been fully identified within the report of the application and he supported the request made by the local Independent Member that officers check with Natural Resources Wales (NRW) that it has taken into account the impacts of flooding associated with the Olway Brook when assessing the flood information submitted by the applicant.

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The Head of Planning agreed that officers would check with Natural Resources Wales (NRW) that it has taken into account the impacts of flooding associated with the Olway Brook when assessing the flood information submitted by the applicant and that this matter be agreed via the Delegation Panel.

It was proposed by County Councillor J. Butler and seconded by County Councillor S. McConnel that application DM/2018/01995 be approved subject to the conditions outlined in the report, with an additional two conditions, namely:

- Compliance with approved site levels (to manage flood issues).
- A Flood Action Plan to be submitted pursuant to the reserved matters.

Also, that officers would check with Natural Resources Wales (NRW) that it has taken into account the impacts of flooding associated with the Olway Brook when assessing the flood information submitted by the applicant and that this matter be agreed via the Delegation Panel.

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

In favour of the proposal	-	14
Against the proposal	-	1
Abstentions	-	0

The proposition was carried:

We resolved that application DM/2018/01995 be approved subject to the conditions outlined in the report, with an additional two conditions, namely:

- Compliance with approved site levels (to manage flood issues).
- A Flood Action Plan to be submitted pursuant to the reserved matters.

Also, that officers would check with Natural Resources Wales (NRW) that it has taken into account the impacts of flooding associated with the Olway Brook when assessing the flood information submitted by the applicant and that this matter be agreed via the Delegation Panel.

5. DM/2022/00263 Extension and change of use of existing garage into dog day care facility. Change of use of field to dog walking paddock - Rhewl Cottage, Shirenewton To Rhewl Farm, Shirenewton, Monmouthshire, NP16 6AG

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 Shirenewton attended the meeting by invitation of the Chair and outlined the following points:

- The Highways Department had originally objected to the application in view of the capacity of the road network and the need for a transport plan.

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- Paragraph 6.2 of the report of the application states that there will be a maximum of six dogs on site each day with four being collected and dropped off each day by the applicant therefore reducing the number of vehicular trips each day.
- The Highways report dated 13th October 2022 recommended a maximum of six dogs per day rather than at any time. The local Member informed the Committee that the Planning Officer and applicant had no objection to following the Highways Department's recommendation. The local Member asked that the Planning Committee considers amending the condition accordingly. Therefore, condition 8 would state the day care element of the proposal hereby approved is limited to a maximum of six dogs per day rather than six dogs at any time.
- The conditions cover the fencing and landscaping and are of interest with regard to visual amenity.
- The public has expressed concern regarding agricultural fields being turned into car parking areas with long high fencing. The rear of another field looks unsightly with high level fencing and the rural background of St. Pierre Woods opposite.
- The Council's Landscape and Green Infrastructure officer had a provisional objection to the proposed dog walking area due to insufficient information.
- The site and fields are located within the Wye Valley Area of Outstanding Natural Beauty, as well as being in open countryside. Current Local Development Plan (LDP) Policy LC4 highlights that any developments to the area of natural beauty must be subservient to the primary purpose to ensure and enhance the natural beauty of the area, hence the reason for the condition on fencing and landscaping are so important.
- The local Member asked that the Planning Committee considers supporting the change to condition 8 to fall in line with the Highways recommendation as proposed in the latest Highways report in order to reduce the vehicular movements along this rural highway.

In response, the Development Services Manager informed the Committee as follows:

- The Planning Case officer does not consider the need to change the condition, as outlined by the local Member. It would therefore be for the Planning Committee to decide this matter.
- If the condition is restricted to up to six dogs per day, that would reduce the applicant's flexibility.

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

- It was considered that there were no reasons to object to the application as outlined in the report.

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- The land remains agricultural and could easily be converted to its original use, if required.

The local Member summed up as follows:

- Objections to the application had been received from Shirenewton Community Council.
- The delay in considering the application related to a delay in information coming forward from the applicant.
- The local Member reiterated her request for Planning Committee to consider supporting the change to condition 8 to fall in line with the Highways recommendation as proposed in the latest Highways report in order to reduce the vehicular movements along this rural highway.

It was proposed by County Councillor J. McKenna and seconded by County Councillor E. Bryn that application DM/2022/00263 be approved subject to the conditions outlined in the report with no amendment to condition 8.

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

For approval	-	15
Against approval	-	0
Abstentions	-	0

The proposition was carried.

We resolved that application DM/2022/00263 be approved subject to the conditions outlined in the report with no amendment to condition 8.

6. DM/2022/01146 Retention of an outbuilding - 3 Hollybush Cottages, Gwent Road, Llantilio Pertholey, Monmouthshire, NP7 6NH

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

In noting the detail of the application, the following points were identified:

- In response to a point raised, the Development Management Area Manager informed the Committee that planning permissions are clearly conditioned and the development is to be carried out in accordance with approved plans. It is clear within the decision notice what has been approved and which drawings have been approved. In respect of this application, it was understood by the applicant that the works would fall within permitted development rights. However, this was not the case.

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- The proposed development is smaller than the original proposal and is set to the rear of the property. Trees are to be planted in front of the development which will reduce visibility of the proposed development from the roadside.
- Concern was expressed that the development had been built without checking whether there was a need to obtain planning permission. In response, the Head of Planning informed the Committee that the application needs to be considered on its merits, as presented to the Committee. This would be the case for any retrospective planning application presented to Planning Committee.

It was proposed by County Councillor E. Bryn and seconded by County Councillor S. McConnel that application DM/2022/01146 be approved subject to the conditions outlined in the report.

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

For approval	-	14
Against approval	-	1
Abstentions	-	0

The proposition was carried.

We resolved that application DM/2022/01146 be approved subject to the conditions outlined in the report.

7. FOR INFORMATION - The Planning Inspectorate - Appeals Decisions Received:

7.1. 17 Grove Gardens, Caldicot, Monmouthshire NP26 4HN

We received the Planning Inspectorate report which related to an appeal decision following a site visit that had been held at 17 Grove Gardens, Caldicot on 2nd November 2022.

We noted that the appeal had been dismissed.

The meeting ended at 3.28 pm.

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: REFUSE

Case Officer: Ms Kate Bingham
Date Valid: 13.07.2020

1.0 APPLICATION DETAILS

This application was presented to Planning Committee in November with a recommendation for approval subject to conditions. Members did not accept this recommendation and deferred the application for refusal.

The following reason for refusal is therefore presented for Members' consideration:

1. It has not been demonstrated that the proposed modification of condition application to extend the range of uses of the building and the hours of operation will not have an adverse impact upon the Llandegfedd Reservoir Site of Special Scientific Interest (SSSI) which is designated for overwintering wildfowl. The development therefore conflicts with Local Development Plan Policy NE1.

PREVIOUS REPORT (November 2022)

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

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 550m² 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)

Reference Number	Description	Decision	Decision Date
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.

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 28I 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 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 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 (1st Nov – 28th 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 Coedy-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 1st - 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 (13th 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 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: REFUSE

Case Officer: Ms Kate Bingham
Date Valid: 13.07.2020

1.0 APPLICATION DETAILS

This application was presented to Planning Committee in November with a recommendation for approval subject to conditions. Members did not accept this recommendation and deferred the application for refusal.

The following reason for refusal is therefore presented for Members' consideration:

1. It has not been demonstrated that the proposed modification of condition application to extend the range of uses of the building and the hours of operation will not have an adverse impact upon the Llandegfedd Reservoir Site of Special Scientific Interest (SSSI) which is designated for overwintering wildfowl. The development therefore conflicts with Local Development Plan Policy NE1.

PREVIOUS REPORT (November 2022)

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 320m² 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.

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 - 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 too 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 document 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 281 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 (1st Nov – 28th 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 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 1st - 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 (13th July 2022).

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Application Number: DM/2021/00036

Proposal: Proposed office, reception, shop and managers dwelling

Address: Land south of Alice Springs, Kemeys Road, Kemeys Commander, Usk, Monmouthshire

Applicant: Mr. Morgan

Plans: Site Plan 1549(PL)02 - , All Proposed Plans 1549[PL]01 - B, Location Plan 1549[PL]03 - A

RECOMMENDATION: REFUSE

Case Officer: Ms Kate Bingham

Date Valid: 25.01.2021

1.0 APPLICATION DETAILS

1.1 Site Description

This application relates to an existing holiday let complex comprising 16 apartments suitable for people with limited mobility on the site of a former golf course and club house.

The site is not within any development boundary or settlement as defined in Policy S1 of the LDP and is therefore considered to be open countryside. The site is also within the Phosphorous Sensitive Catchment Area of the River Usk SAC.

1.2 Proposal Description

This application follows the approval of the demolition of the former Alice Springs Golf Course Clubhouse and its replacement with holiday let apartments under Planning Permission DM/2018/01075 on 12th September 2018. It is now proposed to add a dwelling for an on-site manager's live-work accommodation. The manager will be dedicated solely to the holiday park. Since the business already exists, and the holiday complex is complete, the proposed application is for a new dwelling on an existing rural enterprise.

The proposed dwelling comprises a four-bedroom live/work dwelling with integral shop, office, store rooms, laundry area and three externally accessible WCs, including one with disabled access. The total domestic floor area of the property is 148.9m². The area dedicated to the business use is 61.8m² - resulting in a gross floor area of 210.7m². As well as living accommodation for the manager and his/her family, the proposed dwelling will provide a 24/7 reception area where guests can check in and will be the primary source of information and assistance. The proposal also features a shop which will provide all the essentials for guests such as toiletries, bread and milk as well as local products. Also within the proposed dwelling will be a laundry room and an office, which will include CCTV surveillance and centralised security. It will be the point past which all traffic to the site will have to pass and will be the reference point for all staff and customers. The building will act as a gatehouse with the ability to control access of vehicles by means of a barrier system operated by the manager. The commercial parts of the building will be segregated from the residential quarters.

2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
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DM/2018/01075 Conversion of redundant golf club house into holiday let apartments incorporating extant extension (Previous MCC Planning Approval ref: DC/2007/01376 dated: 1 May 2008). Approved 12/09/2018

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S1 LDP The Spatial Distribution of New Housing Provision
S10 LDP Rural Enterprise
S11 LDP Visitor Economy

Development Management Policies

DES1 LDP General Design Considerations
EP1 LDP Amenity and Environmental Protection
EP4 LDP Telecommunications
NE1 LDP Nature Conservation and Development
LC1 LDP New Built Development in the Open Countryside
LC5 LDP Protection and Enhancement of Landscape Character

4.0 NATIONAL PLANNING POLICY

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 as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation. A well-functioning planning system is fundamental for sustainable development and achieving sustainable places.

The planning system should create sustainable places which are attractive, sociable, accessible, active, secure, welcoming, healthy and friendly. Development proposals should create the conditions to bring people together, making them want to live, work and play in areas with a sense of place and well being, creating prosperity for all.

Technical Advice Note 6 - Planning for Sustainable Rural Communities

The proposal site is at Alice Springs Lodge and is outside any settlement boundary and accordingly is seen as a dwelling in the open countryside. With regard to the proposed permanent dwelling on the holding, paragraph 3.7 (farm diversification), 4.3 (rural enterprise dwellings), 4.4 (new dwellings on established rural enterprises) and 4.5 (second dwellings on established farms) are considered to be the relevant. The TAN6 tests examined below.

5.0 REPRESENTATIONS

5.1 Consultation Replies

Gwehelog Fawr Community Council - Members were surprised that the wider site development is being potentially added to.

Concern was raised in relation to:

1. why the application for the construction of a manager dwelling, had not been included in the original request for planning permission?

2. whether the additional site development proposed, meets the guidance in relation to concerns over phosphates and in no way will cause any detriment to other water quality indicators of the watercourses and rivers?

MCC Sustainable Drainage Approving Body (SAB) - The proposed scheme will require a sustainable drainage system designed in accordance with the Welsh Government Standards for sustainable drainage. The scheme will require approval by the SuDS Approving Body (SAB) prior to any construction work commencing.

Richard Anstis (Rural Development Consultant to MCC) - Insufficient evidence to support an additional functional need for a second dwelling:

- TAN6 Paragraphs 3.7 (farm diversification), 4.3 (rural enterprise dwellings), 4.4 (new dwellings on established rural enterprises) and 4.5 (second dwellings on established farms) are considered to be the relevant.
- The assessment is of a proposed secondary dwelling, given that there is already a primary dwelling on the wider holding (i.e. at Trostrey Court).
- Although not strictly dependent on the surrounding land, it will gain primary inputs from the converted clubhouse on that land and those inputs are primarily from tourism, so it may form a qualifying enterprise (under TAN6).
- The proposal is presented as part of an established enterprise and this is accepted.
- The wider holding has been established for more than three years, profitable for at least one and is currently financially sound, with a clear prospect of remaining so.
- It is evident that although the total diversifying element is substantial, the farming element remains significant enough for this to be considered as a diversification proposal and perhaps more importantly, does not threaten that farming enterprise and protects the long term sustainability of the farming element.
- The evidence on functional need, which essentially focuses on client expectations for a manager to live on site, is not compelling.
- The function can be fulfilled by the existing dwelling and the evidence on alternative dwellings is unconvincing. This test is not satisfied.
- There is no presented evidence of an intention for a succession, or a need for an additional 0.5 worker, set out in the further exception tests referred to in TAN6.
- The proposal shows a house and associated areas that together appears to be considerably in excess of the needs of the business.
- Insufficient evidence to support an additional functional need for a second dwelling.

SEWBRc Search Results - No significant ecological record identified.

5.2 Neighbour Notification

One representation received. Objects on the following grounds:

There was no mention on the original planning application of the need for a manager's property even though this must have been envisaged. I am concerned about the "drip-feed" nature of these applications.

Is there really a need for such a large property?

5.3 Other Representations

None.

5.4 Local Member Representations

Former Cllr V Smith - This application is for a substantial residential and administrative new build in the countryside, which I consider is contrary to Mon CC policy. A shop in this location would undermine other retail outlets in our towns.

Cllr A Neill - I write in support of the above planning application at the former Alice Springs Golf Club, now the Alice Springs Lodge. This is a development of 16 holiday let apartments/ 32 bedrooms built and fitted out to a high standard, and the application is additional manager accommodation to be built within the curtilage of the site.

The application for additional accommodation to be built is absolutely central to the business model as it would house a full-time manager who is essential for the maintenance of the site and for the business to be run to a high standard – greeting, registering, supporting guests who arrive at all times of the day, and managing the many services required – for example, the site requires 16 cleaners to be managed for daily requirements.

This business is a strong one for the local economy. The role of manager (and family) would be advertised locally and would appeal to residents of Monmouthshire as well as beyond within UK. It would be a highly professional role, to be delivered with the experience necessary to support accommodation with bedrooms that exceed in number many of hotels within the region.

The application has now taken 23 months to reach the current stage. I understand that planning officers, who have previously indicated support for the development, are now minded to refuse the application. I find this baffling and very counter to the proper establishment of a high quality business in Gobion Fawr with economic benefits for the local economy – which the planning service must properly take into consideration. Guests who stay at Alice Springs Lodge decide to come there because it is in the heart of Monmouthshire. They visit local shops, restaurants, cafes, pubs and other facilities locally – and as these are high-end apartments, they typically have higher disposable income as they are not looking for a budget stay. This would become a very good stimulant for the local economy. It appears that the planning service has indicated they believe that a manager is not required and that this role could be taken by a nightwatchman living locally. This is simply wrong and fails to understand this business and this sector. The role is a full-time one and is required on site. For that to be the case, accommodation is required on site, and therefore the accommodation would need to provide for a whole family, not simply the employee.

It appears that the planning service had also indicated that the existing accommodation could be used for this purpose. This would require the re-working and conversion of two apartments, as the accommodation would need to meet the needs of a whole family. Doing so would reduce the offer of two apartments by the value of £2,000 per week in the peak season.....equivalent to an estimated minimum £40-50,000 per annum in lost income. Such an approach would simply be damaging for the business and bad for the local economy as it would reduce by 1/8th the potential for local expenditure.

This is a substantial local business, with genuine substantial local economic benefits. The proposed additional manager's accommodation would be built to the same high standard as the holiday lets, and would be well within the curtilage of the site.

The owner of the site, having waited 23 months and counting, has lost substantial potential income in this period as the business cannot reach its capacity without on-site management.

I support the development that is proposed for all the above reasons, and request that the application is approved. If the planning service is not minded to support the application, I request that the application is called in by the Planning Committee, and that the owner and his representative is permitted to provide the rationale for this straightforward development directly to the Committee.

6.0 EVALUATION

6.1 Strategic & Spatial Choices

6.1.1 Strategic Planning/ Development Plan context/ Principle of Development

The proposal site is a former golf club, in a rural location outside existing settlements. The former site extended to 80ha, but the applicant only bought the former clubhouse and 12ha of the land.

The site is now presented as part of a wider farm, including 120 hectares of arable land, 60 hectares of grassland, a substantial 220 cow dairy unit, a substantial 130,000 bird broiler unit and an established holiday let unit at Trostrey Court. As such, the proposal is presented as a farm diversification enterprise to the main farming business and as a new part of an established business at Trostrey Court, where 14 holiday let units from converted farm buildings have already been established for 15 years.

The Welsh Government Technical Advice Note 6: Planning for rural Communities applies to this type of development. The document is clear that tourism and leisure enterprises based in the countryside qualify as rural enterprises and therefore any dwelling proposals on such enterprises should be assessed under TAN 6 measures.

TAN6 Paragraph 3.7 states that planning authorities are required to consider the nature and scale of activity of any proposals and the corresponding nature and scale of the farms to which they are presented as being a diversification from. In this case it is evident that although the total diversifying element is substantial, the farming element remains significant enough for this to be considered as a diversification proposal and perhaps more importantly, does not threaten that farming enterprise and protects the long term sustainability of the farming element.

TAN6 Paragraph 4.4 states that new permanent dwellings should only be allowed to support established rural enterprises providing:

- a. there is a clearly established existing functional need;
- b. the need relates to a full-time worker, and does not relate to a part-time requirement;
- c. the enterprise concerned has been established for at least three years, profitable for at least one of them and both the enterprise and the business need for the job, is currently financially sound, and has a clear prospect of remaining so;
- d. the functional need could not be fulfilled by another dwelling or by converting an existing suitable building already on the land holding comprising the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the worker concerned;
- e. other normal planning requirements, for example siting and access, are satisfied.

The theoretical labour requirement for the business has been calculated by the applicant as 2.7 fulltime workers which would be met by the appointed manager with assistance from a range of part time and seasonal staff. The workload at the existing holiday lets at Trostrey Court necessarily prevents the existing manager of those units from attending to guests at Alice Springs, not only under emergency scenarios, but in any work capacity. This person not only looks after the holiday units at Trostrey Court but is also employed on the farm itself. As such the proposed dwelling would be for a new worker. The Council's Rural Development Consultant has advised that there is insufficient evidence to show that a new worker would need to live at the site of the apartments and that the complex could not be adequately managed by someone living close by (e.g. Trostrey Court) or by more than one person working in shifts.

During discussions with Planning Officers it was suggested that some of the recently constructed holiday-let accommodation could be used to provide manager accommodation. However, the applicant has advised that this is not possible because of the nature of the recently finished individual units of accommodation. The proposed live/work unit performs the function of the 'gatehouse' to the development where all guests check in and are briefed on how the site operates and are conveyed to their accommodation. Use of one of the units for living accommodation would also reduce the income potential for the site. Furthermore the existing apartments have only two bedrooms and no garden area. This would not appeal to any potential managers with a family which would limit the ability of the applicant to attract a suitable candidate for job. These reasons for not utilising an existing unit, however, are not considered to outweigh the conflicts with TAN6 referred to above.

It is noted that the holiday apartment complex that the proposed dwelling is to serve comprises 16 units specifically designed and marketed to the over-50 age bracket and the accommodation has been designed and built to facilitate movement for those who may be less mobile. All of the flats are wheelchair and disabled compliant with stair lifts and wide entrances throughout, including

easy access showers and low-level electrical switches. Although the target demographic for the holiday lets could include a high proportion of guests who would generally be considered to be in the 'vulnerable group' for health-related conditions, there is no mechanism within the gift of this application to control who would be using the accommodation as the units already have unrestricted consent. The type of guests cannot therefore be taken into consideration in determining this application.

Further to the overall concerns regarding the principle of the development, the proposed dwelling includes the shop, reception, office and additional toilets, all within the overall domestic design and the result is a significant four bedroomed dwelling which would cover over 210sqm. Although there is precedent of a secondary worker's dwelling not exceeding 150sqm, each application is to be assessed on its own merits and here the residential element is 148.9sqm, with the commercial area covering 61.8sqm. Should Members be minded to approved the application, a condition ensuring that the commercial area remains as such in perpetuity and is not used as domestic accommodation should be imposed. This has been agreed by the applicant.

In conclusion, it is considered that it has not been demonstrated that the tests of Welsh Government's TAN6 have been met.

6.1.2 Good Design/ Place making

The proposed dwelling is traditional in appearance and has been designed to be in keeping with the apartment complex in terms of form and materials. It will be located within the gated site and not prominent in the wider landscape.

In terms of the size of the dwelling, there is precedent of a secondary worker's dwelling not exceeding 150sqm, but each is assessed on its own merits and the residential element proposed in this application is 148.9sqm, with the further area of 61.8sqm presented as commercial, totalling around 210sqm. As such, the need for the commercial activities within the building has resulted in a larger house than would normally be permitted as a rural enterprise dwelling. It was suggested by planning officers that the commercial functions be separated. However, the applicant provides that this would be at odds with the nearby Pont Kemeys Caravan Park which has an on-site shop incorporated within the dwelling and allows the manager to combine office work with the monitoring of the shop. If the shop was to be a separate unit it would be a small building in the centre of a well-designed site with a legible layout. Energy efficiency of the site would also be lost as a separate unit to heat and supply electricity would be required which would also be more expensive. The shop would also need to be manned throughout its opening hours, meaning either another full-time worker or a shop with severely restricted opening hours, meaning it is less convenient for guests.

It is acknowledged that the residential part of the building is generally within the size parameters normally permitted for rural enterprise dwellings and so a condition restricting the use of the commercial part of the building to ensure that it does not become residential accommodation is suggested should Members be minded to approve the application.

6.1.3 Impact on Amenity/ Promoting Healthier Places

There are no other residential properties except for the holiday apartments within close proximity of the site that could be adversely affected by the proposed dwelling and associated commercial uses.

6.2 Active and Social Places

6.2.1 Transport / Housing - sustainable transport issues (Sustainable Transport Hierarchy)

The proposed dwelling is to be used in association with an existing rural enterprise which is not well served by public transport. Having the manager located on site will reduce the need for additional journeys by private vehicles to and from the site. The provision of an on-site shop will also help reduce car movements of those staying within the holiday complex.

6.2.2 Access / Highway Safety

There will be no change to the existing access as a result of the development. Four parking spaces are to be provided within the site for the dwelling which exceeds the requirements of the Adopted Monmouthshire Parking Guidelines.

6.3 Productive and Enterprising Places

6.3.1 Tourism

Holiday accommodation of the type that is provided at this site is not common within the County and so the provision is welcomed in terms of the benefits that tourism can bring to the local area in terms of economic benefits, especially with the units being suitable for year-round stays. The effective management of the site is part of the attraction of the accommodation to the demographic that it is aimed at, i.e. older people with less mobility that may require emergency care.

6.4 Distinctive & Natural Places

6.4.1 Biodiversity

In accordance with PPW11 all development must provide proportionate net gain for biodiversity. This can be in the form of bat/bird boxes or pollinator planting. This has not been shown on the drawings submitted and therefore a condition requiring this would be required should consent be granted.

6.4.2 Water (including foul drainage / SuDS), Air, Soundscape & Light

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.

This application has been screened in accordance with Natural Resources Wales' interim advice for planning applications within the river Special Areas of Conservation (SACs) catchments (issued on 2nd May 2021). It is considered that this development is unlikely to increase phosphate inputs as it falls within the following criterion in the interim advice:

Private sewage treatment systems discharging domestic wastewater to ground built to the relevant British Standard where:

- the drainage field is located more than 40m from any surface water feature such as a river, stream, ditch or drain, and
- the drainage field is located more than 50m from a SAC boundary, and
- the maximum daily discharge rate is less than 2 cubic metres (m³).
- There is no cumulative impact.

6.5 Response to the Representations of Third Parties and/or Community/Town Council

Gwehelog Fawr Community Council and a neighbour have questioned why the application for the construction of a manager dwelling, had not been included in the original request for planning permission and whether the additional site development proposed. It would not have been appropriate to submit an application for a rural enterprise dwelling prior to the business becoming established in line with the requirements of TAN6.

The proposed shop would sell only basic provisions and is unlikely to take trade away from any other shops, although the closest shops are in Usk. Furthermore, the site can only be accessed via a security barrier and so it is unlikely that persons not staying on the complex will be granted access.

The phosphate matter raised by the Community Council and the size of the dwelling raised by a neighbour have been addressed above.

The comments in support of the application submitted by the Local Member are noted but unfortunately do not outweigh the failure of the proposed development to meet the need requirements set out in TAN6.

6.6 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.

6.7 Conclusion

The nearby existing holiday lets have good levels of profitability and have been operating for 14 years with high levels of occupancy. The projected cashflow demonstrates that the additional facilities will generate an income commensurate with expectations of an experienced site manager with healthcare skills and the profits generated will be capable of funding the construction of the proposed live/work unit.

However, there is no compelling evidence that a site manager(s) could not occupy one of the existing units on the site and that the commercial aspects of the proposal could be accommodated in a new separate building. The individual needs of the target demographic for the existing holiday accommodation cannot be considered in the determination of this application as the Local Planning Authority has no control over the type of guests staying, meaning that in the future guests who need little assistance could be encouraged.

The siting of a rural enterprise worker's dwelling is not therefore considered to be compliant with national policy and guidance contained in TAN 6: Functional need for a second dwelling to support an existing rural enterprise.

The design of the dwelling is considered to be in keeping with the existing buildings on the site and will not harm wider visual amenity. The proposal therefore accords with LDP Policies DES1 and LC5. The proposed dwelling will have no impact on any other neighbouring dwellings and Policy EP1 is therefore also complied with.

7.0 RECOMMENDATION: REFUSE

Reason for Refusal:

1. It has not been reasonably demonstrated that the proposed Rural Enterprise Dwelling meets the tests of Technical Advice Note 6: Planning for Sustainable Rural Communities (July 2010). There is insufficient evidence to show that a new worker would need to live at the site of the apartments and that the complex could not be adequately managed by someone living close by or by more than one person working in shifts.



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 30/11/22

gan R Duggan BSc (Hons) DipTP MRTPI

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad: 14.12.2022

Appeal Decision

Site visit made on 30/11/22

by R Duggan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Welsh
Ministers

Date: 14.12.2022

Appeal Ref: CAS-02277-N5Q4F3

Site address: 60 Old Barn Way, Abergavenny NP7 6EA

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 Steve Bull against the decision of Monmouthshire County Council.
- The development proposed is described as “the retention of domestic garage”.

Decision

1. The appeal is dismissed.

Procedural Matters and Main Issues

2. It is clear from the evidence and my site visit that the development has already occurred and the garage is nearing completion. Whilst I note the description of the development refers to the “retention” of the garage, section 55 of the Town and Country Planning Act 1990 describes “development” as the “carrying out” of building operations and not their retention. As such I have determined the appeal on the basis that it seeks retrospective consent under the terms of Section 73A(2)(a) of the 1990 Act.
3. The as built garage has a steeply pitched roof covered in slate with two roof lights providing natural light to a storage area within the roof space and it benefits from a roller shutter door fronting the rear lane and an access door from the garden. It currently measures approximately 5.723m to the ridge and 2.818m to the eaves and is approximately 6.4m in width and 7m in length.
4. The planning application was recommended for approval by the Council’s planning officers subject to the ridge and eaves height of the garage being reduced. The Appellant agreed and amended plans were submitted prior to the determination of the application showing the ridge and eaves of the garage being reduced in height by 0.46m to approximately 5.263m and 2.358m respectively but the width and length of the garage would remain as built. My assessment of the appeal proposal is, therefore, based on the amended plans.
5. The application was subsequently refused by Members of the planning committee against the recommendation of officers. Having regard to the planning committee report,

representations made by interested parties, the reason for refusal set out on the decision notice and my site visit, I consider the main issues in this case to be the impact of the development on the character and appearance of the street scene and on the living conditions of neighbouring residents.

Reasons

6. The appeal site consists of a semi-detached property fronting onto Old Barn Way which benefits from off-road parking and a garden sited to the front of the property and a modest rear garden. The appeal property is located within a row of similarly designed semi-detached properties which have rear gardens of similar width and length which back onto a lane to the rear. Of particular note is that the vast majority of houses along the street contain single-storey flat roof garages and outbuildings within the rear gardens with some having direct access onto the lane, and there are no outbuildings of the same scale and height as the appeal garage.
7. Even with a reduction in the height of the ridge and eaves of the garage by approximately 0.46m, the garage would be seen as a visually dominant structure to the rear of the host property out of keeping with the more modest ancillary structures found within the rear gardens of neighbouring properties. The height of the pitched roof would also jar with the roof design of the host dwelling and neighbouring properties resulting in an incongruous development. Whilst the garage is screened to some extent in views from Old Hereford Road by mature trees, especially in the summer months when the trees are in full leaf (as shown by the Appellant's photographs), it is clearly visible from the rear facing windows of the neighbouring properties and by pedestrians walking along the rear lane.
8. The garage occupies a substantial part of the rear garden, and even with a reduction in height it would continue to be an imposing and visually dominant building out of keeping with the character and appearance of the area. I note that a double garage was granted planning permission in December 2019, however, the ridge height of that garage was 4m, which is significantly below the proposed revised height of the appeal garage.
9. Given its prominent position directly on the rear lane, I consider that the scale of the garage would seriously undermine the character and appearance of this pleasant residential area and cause significant harm to the street scene. Therefore, it would conflict with Policy DES1 of the Adopted Monmouthshire Local Development Plan (2019) which, amongst other things, requires all development to be of a high quality sustainable design and respect the local character and distinctiveness of Monmouthshire's built, historic and natural environment, and development proposals will be required to respect the existing form, scale, siting, massing, materials and layout of its setting and any neighbouring quality buildings.
10. Turning to the second main issue, concerns have been raised by neighbouring residents that the garage has an overbearing impact on their properties and negatively impacts on their living conditions.
11. I would agree with these concerns. From the rear garden and in views from the rear facing windows of No. 58 Old Barn Way, the outlook would be dominated by a mass of built form in a way that I consider would be overbearing. Moreover, the height and scale of the garage would result in an imposing form of development that would be visually over-dominant, exacerbated by the fact that the ground level of the appeal property is higher than No. 58. Notwithstanding the proposed reduction in the height of the garage, the development would be inappropriate to its context and increase the sense of enclosure with consequence adverse effects on the living conditions of the occupant(s) of No. 58 Old Barn Way contrary to Policy DES1 of the LDP.

12. I appreciate that the garage would provide the additional security for vehicles and other items stored within it, and that it has been constructed with a high quality finish with complimentary natural materials. However, this does not carry sufficient weight to overcome the concerns already identified in respect of the appeal.
13. Having regard to the above and considered all other matters raised, I conclude that the appeal should be dismissed.
14. 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 the Welsh Ministers' well-being objectives of building a stronger, greener economy as we make maximum progress towards decarbonisation, making our cities, towns and villages even better places in which to live and work and embedding our response to the climate and nature emergency in everything we do.

R Duggan

INSPECTOR

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Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 30/11/22

gan R Duggan BSc (Hons) DipTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 14/12/2022

Appeal Decision

Site visit made on 30/11/22

by R Duggan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 14/12/2022

Appeal Ref: CAS - 02327

Site address: Arosfa, Llanfair Discoed, Chepstow NP16 6LY

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 Ms Tegwen Duffield against the decision of Monmouthshire County Council.
- The development proposed is a single-storey front extension.

Decision

1. The appeal is allowed and planning permission is granted for a single-storey front extension at Arosfa, Llanfair Discoed, Chepstow NP16 6LY in accordance with the terms of the application, Ref DM/2022/00696, dated 09 May 2022, subject to the conditions set out in the attached schedule.

Procedural Matters and Main Issues

2. The planning application subject to this appeal was recommended for approval by the Council's planning officers, however, the application was refused by Members of the planning committee against the recommendation of officers. Having regard to the planning committee report, representations made by interested parties, the reasons for refusal set out on the decision notice and my site visit, I consider the main issues to be the impact of the development on the character and appearance of the host dwelling and locality and on the living conditions of neighbouring residents in terms of overshadowing.

Reasons

Character and Appearance

3. The appeal site consists of a semi-detached two-storey property located outside the village of Llanfair Discoed within open countryside. The house has been modernised and extended by a two-storey side extension in recent years, and the neighbouring dwelling has also been extended with a single-storey side extension. I observed that there are other similar semi-detached properties in the area which have also been extended, including extensions of varying size and design to the front elevations.

4. It is proposed to erect a single-storey extension to the front elevation of the appeal property effectively creating a new entrance/porch. It would measure approximately 4m in length and 3.6m in width with an eaves height of about 2.5m and a ridge height of 3.5m.
5. Policy H6 'Extension of Rural Dwellings' of the Adopted Monmouthshire County Council Local Development Plan (LDP) 2014, states "*In order to protect the character of the countryside extensions to dwellings outside village boundaries should be modest and respect or enhance the appearance of the existing dwelling. They will be required to: a) be subordinate to the existing building; and b) where the building is of a traditional nature, to respect its existing form, including the pattern and shape of openings, and materials*".
6. The Council's planning committee report also refers to its Supplementary Planning Guidance (SPG) 'Policies H5 & H6 - Replacement Dwellings in the Open Countryside & Extension of Rural Dwellings' (April 2015). Section 3.3 of the SPG states that "*Any extension that will result in an increase of more than 50% in the volume of a rural dwelling will not normally be considered to comply with Policy H6*".
7. I note that the property has previously been increased in size by approximately 46% following the construction of the two-storey side extension, and the proposed single storey extension would represent a further 15%, thus resulting in an increase in the overall volume of the property of approximately 61%. Although the proposed development would run counter to the general thrust of the advice contained within the Council's SPG, I have treated the document as providing no more than guidance which can assist in the assessment of planning applications including the application of the policies of the development plan. I consider that the advice set out in the SPG should not be treated as prescriptive.
8. In addition, policy H6 and the advice contained within the SPG are aimed at protecting the form, character and visual appearance of traditional/rural buildings in the open countryside from inappropriately sized extensions and alterations. It is clear that the property has already been recently extended and that this pair of houses are not traditional rural dwellings. It is within this context that I have assessed the appeal proposals.
9. I find that the design, siting and modest scale of the proposed front extension to be an appropriately designed and subservient addition to the property. In my judgement, the dwelling would not be overwhelmed by the extension and its identity and composition would be retained when seen from the adjoining highway and further afield. This pair of dwellings have already been extended and as a result are not symmetrical, and extending the property to the front would therefore not impact on the symmetry of this pair of semi-detached properties. The overall design, proportions and scale of the proposed extension would complement the character and form of the existing house and not dominate the plot.
10. I have had regard to the Council's concerns regarding the scale of the extension. However, my findings in this appeal must be based only on the individual planning merits of the scheme and the particular context of the case that is before me. The circumstances of other sites would be likely to be different and if proposals for extensions to rural dwellings or traditional farmhouses came forward elsewhere in the countryside, they would be assessed in the light of the individual factors relevant to those cases.
11. Having regard to the above, I find that the proposed development would not have a detrimental impact on the character and appearance of the host property or the locality. Therefore, it would comply with the related aims of Policies H6 and DES1 of the LDP.

Living Conditions

12. Due to the height of the extension and the fact that it would be sited approximately 1m from the common boundary concerns have been raised that it would cause overshadowing of the neighbouring property known as Cartref. I saw on my site visit that there is only one window to a habitable room on the ground floor of Cartref which serves a kitchen and this is approximately 5m away from the proposed side elevation of the extension.
13. The Appellant has submitted plans that assess the potential for overshadowing. The summer drawing shows that there would be no impact; in the spring/autumn the plans show that there would be a limited amount of shadowing; and the winter plan shows there would be potential for a limited level of overshadowing but this will reduce as the day goes on due to there being less light in the winter. No counter evidence has been produced by the Council.
14. Having regard to the evidence submitted by the Appellant and my observations on site, I am satisfied that the siting, height and orientation of the extension in relation to the nearest habitable window of Cartref would ensure that the extension would not result in any significant loss of sunlight or daylight within the kitchen. As the roof of the extension would be hipped this would also reduce the level of overshadowing that would be caused by the development.
15. For the above reasons, I conclude that the proposed development would not harm the living conditions of the neighbouring residents in terms of overshadowing, and there would be no conflict with Policies DES1 and EP1 of the LDP which, amongst other things, require development to protect the privacy and amenity of occupiers of neighbouring properties.
16. I have taken into account all other matters raised in objection to the proposal, including those about drainage and archaeology, but have been given insufficient evidence to justify the refusal of planning permission.

Conditions

17. I have considered the conditions suggested by the Council in the light of the Circular 16/2014: The Use of Planning Conditions in Development Management. I concur that the requested conditions are reasonable and necessary for the reasons given.

Conclusions

18. Having regard to the above and considered all other matters raised, I conclude that the appeal should be allowed.
19. 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 the Welsh Ministers' well-being objectives of building a stronger, greener economy as we make maximum progress towards decarbonisation, making our cities, towns and villages even better places in which to live and work and embedding our response to the climate and nature emergency in everything we do.

R Duggan

INSPECTOR

SCHEDULE OF CONDITIONS

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

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: Location Plan; Block Plan dated 13.07.2022; Shading Plan Summer dated 13.07.2022 (Page 1); Shading Plan March/Sept dated 13.07.2022 (Page 2); Shading Plan December dated 13.07.2022 (Page 3); Existing Elevations dated 22.04.2022; Biodiversity Statement; Block Plan showing 45 degree rule dated 24.03.2022; Elevations Proposed dated 18.07.2022 (Page 2).

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application.

- 3) The net biodiversity enhancement measures shall be installed in accordance with the details included within the "Biodiversity Statement" and drawing "Block Plan dated 13.07.2022" within one month of the extension being brought into beneficial use and shall be retained thereafter, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of biodiversity and to provide a net benefit to biodiversity in accordance with Policy 9 of Future Wales and Policy NE1 of the Monmouthshire Local Development Plan.



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 10/11/22

Ymweliad â safle a wnaed ar 14/11/22

gan Declan K Beggan BSc (Hons) MSc
DipTP DipMan MRTPI

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad:2022-12-07

Appeal Decision

Hearing held on 10/11/22

Site visit made on 14/11/22

by Declan K Beggan BSc (Hons) MSc
DipTP DipMan MRTPI

an Inspector appointed by the Welsh
Ministers

Date:2022-12-07

Appeal Ref: CAS-01498-S6V3W3

Site address: The Cotlands, Beacon Road, Trellech, NP25 4PR

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 (the Act) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Brian and Rosemary Kedward against Monmouthshire County Council.
- The development subject to the appeal is described as “Proposed earth sheltered dwelling under the grazing land along with associated works on the site of the former Cotland Farmhouse. The proposal forms part of an agricultural holding and would form the principal residence of the applicants and holding unit”.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application form refers to only Mr Kedward as the applicant, whilst the appeal form refers to Brian and Rosemary Kedward as the appellants. Mr Kedward confirmed at the hearing that the appeal form correctly identified who the appeal was made on behalf.
3. I note the description of the site address on the planning application form and the Council’s decision notice varies slightly from that given on the appeal form. Both main parties at the hearing agreed that it was appropriate that the site address given on the planning application be used.

4. The description of the development varied between that stated on the planning application form and that used by both the Council on their appeal documentation and the appellants on their appeal form. In the interests of clarity and conciseness, I agreed at the hearing with both parties the wording to be used in the description as stated in the banner heading above.
5. The appellants submitted a draft Statement of Common Ground (SoCG); however, it was not signed by the Council who clarified at the hearing that there was little in it that they could agree with. I have therefore given the SoCG no weight in this process.

Main Issues

6. I consider the main issues in this appeal to be:
 - The appropriateness of locating the proposed development outside settlement limits, having regard to local and national planning policies;
 - The impact of the proposal on the visual qualities and character and appearance of the Wye Valley Area of Outstanding Natural Beauty (AONB);
 - The appropriateness of locating the proposed development on best and most versatile agricultural land, having regard to national planning policies;
 - The impact of the proposed development on the River Usk Special Area of Conservation (SAC); and,
 - The need for a planning obligation related to affordable housing.

Reasons

Appropriateness of Development Outside Settlement Limits

7. The appeal site encompasses the whole of an agricultural field located in open countryside, near to Beacon Road, south of the village of Trellech at some 1 Km away. The gently sloping field is currently used for the grazing of sheep. The site is bordered to the north by an access track that leads to forested land that also borders the eastern boundary. The western and southern boundaries of the site are bordered by a variation of post and wire fencing, hedges and trees, along with the gardens to a number of dwellings. The immediate area is characterised by rolling agricultural fields, interspersed with forested land and sporadic dwellings. The site is located within the AONB.
8. It is a long-standing planning policy position that the countryside should be safeguarded from uncontrolled and sporadic development, with development primarily directed to existing settlements; otherwise, unrestrained encroachment of the countryside would occur. However, other appropriate locations outside settlements cannot be discounted and these have to be weighed against national advice supporting sustainable development as detailed in Planning Policy Wales Edition 11 (PPW). PPW states that a plan led approach is the most effective way to secure sustainable development through the planning system.
9. Policy S1 of the adopted Monmouthshire Local Development Plan (LDP) is a strategic policy that relates to the spatial distribution of new housing. In summary the policy seeks to direct new housing to within or adjoining settlements such as towns and main villages e.g. Trellech. Outside these development boundaries planning permission for new residential development will not be allowed in any other settlements except in or adjoining identified minor villages where small scale residential development will be allowed subject to certain circumstances. Outside the settlements listed, open countryside policies will

apply where planning permission will only be allowed for new residential development related to conversion of rural buildings, subdivision of existing dwellings, and dwellings necessary for agricultural, forestry or other appropriate rural enterprises, in accordance with Technical Advice Note 6: Planning for Sustainable Rural Communities (TAN 6). Policy S1 broadly reflects national planning policy as stated in PPW in regard to the control of new housing in line with sustainability principles.

10. The appellants refer to the appeal site lying within the settlement/cluster of Cotland/Beacon, and whilst in the general vicinity of the site there is a loose collection of properties, nonetheless they do not form a settlement as defined in the LDP; the nearest settlement is Trellech with the appeal site being well outside its defined boundaries.
11. In planning policy terms, the site is defined as countryside, where residential development is generally resisted in the interests of sustainability. Mr Kedward confirmed at the hearing that his case is not premised on rural exception grounds relating to a rural enterprise dwelling and he also accepts that no case is being made that it is a 'One Planet Development' proposal. The evidence also indicates that the proposal does not fall within any other category of development permitted under policy S1 such as an affordable dwelling or development adjoining a settlement boundary. It must therefore follow that the proposal runs contrary to local planning policy that seeks to restrain development outside of settlement boundaries in the broad interests of sustainable development.
12. The Act along with PPW states that development management considerations should be made in accordance with the development plan unless material considerations indicate otherwise. Whilst the appellants argue that the proposed dwelling would allow for supervision and care of livestock, I see no reason why such care cannot be provided from their existing dwelling which is only a mile from the site; such an arrangement is not uncommon, and the appellants have given no compelling reasons for me to think otherwise. The appellants refer to the proposed dwelling allowing them to both have a home workshop/office whilst sustaining a small holding within the county, however the appellants have given no substantive reason why this could not occur from their current dwelling.
13. Any environmental benefits of the scheme such as its subterranean grassed covered construction or its use of materials, would not outweigh the significant conflict with local and national planning policies. In addition, regarding other sustainable criteria, there is no substantive evidence to indicate that the proposal would result in a reduction in the use of or dependence on private vehicles for transport, and it is some distance from the nearest settlement and therefore unlikely to promote pedestrian travel in terms of accessing services. The proposal would also not promote sustainable development for other reasons as discussed later in this decision.
14. Drawing the threads of the above together, the proposed development would be inappropriately located having regard to its siting outside any recognised settlement limit, and with reference to local planning policy S1 and national planning policy contained within PPW. PPW supports sustainable development, however, this must be in accordance with the development plan unless material considerations indicate otherwise; none of the other material considerations referred to above, or for that matter any others would outweigh the significant conflict with planning policy.

Character and Appearance

15. PPW refers to giving great weight to conserving and enhancing the natural beauty of AONBs and that they must be afforded the highest state of protection from inappropriate development. Policy LC4 of the LDP states, within the Wye Valley AONB, any

development must be subservient to the primary purpose to conserve and enhance the natural beauty of the area, and criteria b refers to consideration being given to “the degree to which design, quality and use of appropriate materials harmonise with the surrounding landscape and built heritage”.

16. The field in which the proposed dwelling would be located has strong physical boundaries which reinforces its rural appearance, and this is strengthened with the backdrop of the surrounding countryside. The appeal site has a sense of openness within the surrounding landscape despite being bordered by the forest and the presence of existing dwellings.
17. Despite the proposed dwelling incorporating a ‘subterranean/earth shelter’ design, nonetheless due to a resultant change in the existing landform, the projecting chimney/venting structure, and the circa 19 metre wide southern glazed elevation, it would form a conspicuous jarring visual feature within the field and within the landscape, particularly so when viewed from Beacon Road and the road further south, to the detriment of the visual amenity of the area. The glazed elevation with its horizontal form is highly likely to draw the eye and even more so in the hours of darkness when it would be subject to internal lighting. The existing open nature of the field would be detrimentally affected due to the siting of development. The proposal would also be apparent from other vantage points such as the access track to the north and the public footpath to the southeast. The provision of an access point, the parking of cars and any likely residential paraphernalia such as washing lines, garden furniture etc would only exacerbate the visual intrusion within the countryside.
18. The proposed dwelling, notwithstanding its use of materials or the use of landscaping would result in an intrusive form of development that would be significantly detrimental to the character and appearance of the area; it would neither conserve nor enhance the natural beauty of the AONB. As a result, the proposed development would be contrary to policy LC4 of the LDP which seeks to conserve and enhance the natural beauty of the AONB, along with policies, S13, S17, LC1, EP1 and DES1 of the LDP which, inter alia, seek to protect visual amenity/landscape character, and national planning policy as detailed in PPW.

Best and Most Versatile Agricultural Land

19. The land subject to the appeal site falls within grade 3a of the ‘Agricultural Land Classification System’ which is the best and most versatile (BMV). The overall site extends to one hectare, although in this case the appellants argue the site would still be used for agricultural purposes with the grazing of sheep. PPW states BMV land should be conserved for the future with considerable weight to be given to protecting such land from development and it should only be developed if there is an overriding need for the development.
20. Whilst the appellants intend to retain an agricultural element to the land that does not outweigh the fact that the proposal would inevitably lead to the loss of BMV land. Mr Kedward drew attention to his view that the appeal site was not good quality land and that the classification maps are only indicative in nature. However, in the absence of any separate independent appraisal of the appeal site’s land quality, I consider the predictive agricultural land classification map which uses the best available information to predict the grade of land on a national basis, as being the determinative factor in assessing the quality of the land subject to this appeal.
21. The proposed development would result in the permanent loss of land, although the exact extent is not clear as the submitted details do not define any domestic curtilage.

However, there is no overriding need or justification for development that would result in the loss of BMV land; this is unacceptable as it runs contrary to national planning policy as espoused in PPW.

Effect on SAC

22. The Council highlight that the site is within the phosphorus sensitive river Usk SAC and that any proposed development that might increase the amount of phosphorus within the river catchment of the SAC could lead to damaging effects on it. The Council argue there is potential for the proposal to increase the amount of phosphorus being discharged from the site and that insufficient information has been submitted to demonstrate whether the proposal is likely to have a significant effect on the SAC.
23. The appeal site is within the catchment of the designated SAC. Natural Resources Wales (NRW) has set new phosphate standards for all SAC's which in short states that new development within any part of the catchment that would increase the amount or concentration of wastewater effluent or organic materials discharged directly or indirectly into the catchment's waterbodies has the potential to increase phosphate levels within those waterbodies which could lead to a damaging effect on the SAC, and therefore any development proposal must be able to demonstrate phosphate neutrality or improvement.
24. NRW advise that the proposed drainage system needs to follow their 'Planning Advice' document for such matters and in particular they draw attention to the need to seek further information in relation to that advice; one of these points refer to private sewage treatment plants for domestic wastewater complying with the relevant British Standard, a maximum daily discharge rate, and that drainage is certain distances from any surface water feature.
25. The appeal documentation highlights that a new septic tank or package treatment plant would be needed. Any new dwelling has the potential to increase phosphate discharges into the SAC. Apart from highlighting that a new septic tank/treatment plant would be needed, the appellants have given little in the way of detailed information in terms of how that system would operate as regards the potential effects on phosphate levels, or the information highlighted by NRW in their advice document. Bearing in mind NRW's comments/advice, the very limited level of information submitted by the appellants regarding foul drainage is inadequate and as a result, it does not address the concerns raised by the Council.
26. In the absence of the above information, I cannot reasonably conclude that the proposal would not result in an increase in phosphate levels to the SAC, nor adversely affect its integrity. As a result, and bearing in mind the precautionary principle, I must conclude that the proposal would be likely to be detrimental to the SAC, thereby conflicting with PPW which seeks to protect ecology, water resources and the promotion of sustainable drainage systems.

Need for a Planning Obligation

27. The Council highlight that no affordable housing contribution via a commuted sum payment has been secured for the proposed development in the event that the appeal was to be permitted. The appellants believed they are exempt from such a payment as they considered the proposal was a self-build project tied to an agricultural holding. Bearing in mind my findings on the other substantive issues related to this appeal, I don't propose to address this matter any further.

Other Matters

28. In support of their case the appellants have drawn attention to a number of other developments in the locality that have been granted planning permission for new dwellings, however the Council explained that these were permitted in line with planning policies for various reasons such as being infill or a replacement dwelling. Notwithstanding any references to previous dwellings permitted by the Council, the fact of the matter is that each application is considered on its own merits and that is what I have done in this instance. The appellants sought to draw parallels between the proposed development and the residential use of a structure in a property adjacent to the appeal site, however, as the structure referred to appears to have been erected under permitted development rights and is being used for purposes incidental to an existing property it is not directly comparable.
29. The appellants appeal documentation refers to the appeal site as having contained the footprint to a former farmhouse, however the evidence in that regard is scant and in any event whatever structure was on the site appears to have been demolished a long time ago, with only remnants now to be found. In addition, reference was made to the site being a redevelopment of brownfield land, however as per PPW it is quite clear that the definition of previously developed/brownfield land excludes, as is the case here, any land/buildings currently in use for agricultural or forestry purposes, or land where the remains of any structure or activity have blended into the landscape over time so that they can reasonably be considered part of the natural surroundings.
30. The appellants have drawn attention to other benefits of the scheme such as its contribution to biodiversity, however these benefits or any others would not outweigh the significant conflict with local and national planning policy as identified above.
31. In support of their stance, the appellants referred to a Council policy entitled “Build Your Own Affordable Home”, however it was clarified at the hearing that this document emanated from the Council’s Housing Strategy Team and was not in fact a planning policy, and in any event the document refers to obtaining planning permission and satisfying the Council that the site is in a suitable location; this site is not in a suitable location for reasons previously identified.
32. The appellants sought to argue that as the LDP is being reviewed that development boundaries may change in favour of the proposed development, however, as confirmed at the hearing, that review process and in particular any boundary review is not likely to occur until 2024 and therefore it carries little weight at this moment in time in the determination of this appeal.

Conclusions

33. For the reasons given above, and having considered all other matters raised, I conclude that the appeal be dismissed.
34. In reaching my decision, I have taken account of 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 as required by section 8 of the Act.

Declan K Beggan

Inspector

APPERANCES

For the Appellants

Brian Kedward – Appellant

For the Local Planning Authority

Jo Draper – Planning Officer Monmouthshire County Council

Interested Parties

Philip Jane – Local resident

Stephanie Housty – Local resident

Mary Shipton – Local resident

Pamela and Clive Nancarrow – Local residents

DOCUMENTS SUBMITTED AT THE HEARING

1. A series of E-mails dated the 9 & 10/11/22 from the Council clarifying their stance in terms of a commuted sum payment related to affordable housing.
2. Block Plan Ref. 18/Cot01/008
3. E-mail dated 10/11/22 related to Council's Housing Strategy Team with the attachment entitled "Build Your Own Affordable Home".
4. E-mail dated 10/11/22 regarding the current position of the replacement LDP.
5. Three separate E-mails of 10/11/22 clarifying outstanding planning policies.
6. E-mail from the Council with plan attached entitled "Up to date list of plans".

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Penderfyniadau ar yr Apêl

Ymweliad â safle a wnaed ar 14/11/22

gan **Janine Townsley LLB (Hons)**
Cyfreithiwr (Nad yw'n ymarfer)

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad:2022-12-16

Appeal Decisions

Site visit made on 14/11/22

by **Janine Townsley LLB (Hons)**
Solicitor (Non-practising)

an Inspector appointed by the Welsh
Ministers

Date:2022-12-16

APPEAL A

Appeal Ref: **CAS-01958-S7K4S3**

Site address: **Little Cider Mill Barn, Tre-Herbert Road, Croesyceiliog, Cwmbran, Monmouthshire, NP44 2DE.**

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act.
- The appeal is made by David Holman against an enforcement notice issued by Monmouthshire County Council.
- The enforcement notice, numbered E22/010, was issued on 11 June 2022.
- The breach of planning control as alleged in the notice is: erection of 2 metre high gates.
- The requirements of the notice are: remove the entrance gates as shown in appendices 1 & 2 (attached from the site).
- The period of time for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(a) of the Town and Country Planning Act 1990 as amended.

APPEAL B

Appeal Ref: **CAS-01945-M9M5D5**

Site address: **Little Cider Mill Barn, Tre-Herbert Road, Croesyceiliog, Cwmbran, Monmouthshire, NP44 2DE.**

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 David Holman against the decision of Monmouthshire County Council.
 - The development proposed is erection of 6 foot high gates at front entrance, inside boundaries to replace existing 5 bar gate for security.
-

Decision – Appeal A

The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Decision - Appeal B

The appeal is dismissed.

Procedural Matter

1. Two appeals are before me, an appeal against an enforcement notice (EN) (“Appeal A”) and an appeal against a refusal of planning permission (“Appeal B”). The development under consideration for both appeals is the same (despite being described as 2 metre high in the EN and as 6ft high in the planning application) as is the evidence presented by the parties in relation to each appeal. Notwithstanding this, I have considered the two appeals individually. However, since the reasons given by the Council for the refusal of planning permission on Appeal B, and the reasons given for taking action in the enforcement notice (EN) on Appeal A are broadly the same, I have addressed the appeals together.

Appeal A - The Ground (a) Appeal and Appeal B

2. In relation to both appeals, the Council’s concern relates to the visual impact of the development on the host dwelling/appeal site and on the wider area. Accordingly, I find the main issue in relation to these appeals to be:
 - The effect of the development on the character and appearance of the site and surrounding area.
3. The development comprises the erection of driveway gates which have been fitted close to the highway but within the appellant’s land ownership. The gates are aluminium with a wood grain effect. I observed the wood effect to be convincing even at close inspection.
4. The site falls outside the settlement boundaries and within the countryside. The character of the surrounding area is rural with only sporadic development in the environs. The appeal site comprises a dwelling which is a barn conversion. The appearance of the building retains the appearance of a barn as a result of the sensitive conversion which has been carried out. There is other development in the area although these also retain the rural character and I saw no other examples of domestic/ urban style means of enclosure.
5. I accept that the appellant has chosen high quality gates, however, the design of the gates are clearly domestic in style and their height and style does not reflect the rural character of the area. I appreciate that appeal site is in residential use, however the dwelling retains a barn like appearance. The gates are adjacent to the highway at a point where they are in clear public view in a setting which is rural in character and they fail to respect the historical value of the appeal site by introducing a means of enclosure which

conflicts visually with the setting. The development therefore conflicts with policy DES1 of the Monmouthshire County Council Local Development Plan (February 2014).

6. I note also that the planning application failed to provide a net benefit proposal for biodiversity which conflicts with section 6.4 of Planning Policy Wales, Edition 11.

Other Matters

7. Matters such as neighbour disputes and references to the police do not fall to be considered by me as part of my assessment of the planning merits of the scheme before me. Whilst I have taken into account the appellant's desire for additional security at his home, this consideration does not outweigh the harm caused to the character and appearance of the rural setting by the driveway gates which have been installed.

Conclusion – Appeal A & B

8. For the aforementioned reasons, and taking into account all matters raised, I consider that both appeals should be dismissed, and I shall uphold the EN as set out in my formal decision above.
9. 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.

Janine Townsley

Inspector

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