

**Application Number:** DM/2024/00355

**Proposal:** The creation of a Travellers' site incorporating four bespoke family related pitches with one static and touring caravan and day/utility room per pitch, emergency flood access, installation of private treatment plant and ecological enhancements (partially retrospective)

**Address:** New Stables, land opposite Llancayo House, Abergavenny Road, Llancayo, Usk

**Applicant:** Ms, Mr Sharmane, Mike Jones, Purcell & Family

**Plans:** Site Plan 02 - B, Photography 03 - C, Photography 04 - C, Photography 05 - C, Photography 06 - C, Site Plan 07 - H, All Proposed Plans 08 - C, All Proposed Plans 09 - C, All Proposed Plans 10 - C, All Proposed Plans 15 - D, Location Plan 00 - D, Location Plan 01 – D, 'Method Statement for Decommissioning of Septic Tank Llancayo Traveller Site' dated 14/5/24.

**RECOMMENDATION: Approve (Subject to Appropriate Assessment under the Habitats Regulations being agreed with NRW)**

Case Officer: Ms Kate Bingham  
Date Valid: 14.03.2024

**This application is presented to Planning Committee due to the number of objections received**

## **1.0 APPLICATION DETAILS**

### 1.1 Site Description/Background

1.1.1 This application site relates to an area of 0.44 ha adjacent to the settlement of Llancayo near Usk. The site is triangular in shape and located to the west of the B4598 and to the east of an unclassified road. To the north is agricultural land. The whole site is surrounded by peripheral trees and mature hedging with a public footpath, Nos 360/60/1, extending in an east-west direction along the northern boundary with a gated access point onto the unnamed minor road.

1.1.2 Since March 2016 a family who are from the Gypsy and Traveller community have occupied the site as their home. A retrospective planning application (DC/2016/00297) was submitted to Monmouthshire County Council on 17th March 2016. The application sought planning permission for a four-pitch Gypsy site for one family - comprising four pitches with space for a mobile home, touring caravan, utility/amenity building and parking space. This planning application was subsequently refused on 12th December 2016 for the four following reasons:

*1 The application site is on greenfield agricultural land in the open countryside outside any development boundary. The applicants have failed to supply sufficient evidence to demonstrate why their particular personal circumstances are so significant as to outweigh the policies in the adopted Local Development Plan which presume against new residential development in the open countryside. Insufficient evidence has been supplied to explain why the applicants have to live in this particular location at this time.*

*2 Part of the site including the access and the adjacent access roads lie within Zone C2 flood risk as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15. No Flood Consequences Assessment has been submitted so it has not been demonstrated that the site, particularly the access, can be protected by approved engineering works or other flood protection measures. If the access were to flood rapidly the occupants of the site could be trapped*

*on a flooded site with no safe means of escape. No evidence has been put forward to explore how this development would impact on local flooding, it may exacerbate the situation as a result of increased areas of hardstanding, and no protection or mitigation measures have been put forward as part of this application. Moreover, no information has been provided regarding the potential for flooding to cause a pollution incident relating to the cesspit. The proposal to site highly venerable development within a C2 flood zone is contrary to the advice contained in TAN15, Planning Policy Wales and also contrary to policies S12, SD3 and H8 e) of the LDP. There is no justification for allowing residential development in this location within the flood zone.*

*3 The proposed development is not be [sic] satisfactorily assimilated into the landscape, being prominent from several public vantage points including the two adjacent public highways and a public footpath. Even with substantial landscaping within the site, the mobile homes, amenity blocks and other domestic paraphernalia will be visually prominent. The proposal represents new residential development that is not well related to the rural character of the area. The proposal is clearly contrary to Policy LC1 of the LDP.*

*4 The current vehicular access into the site is sub-standard and not in accordance with current design standards. The proposed use of this access without improvements to visibility and ease of access splays will be detrimental to highway safety.*

1.1.3 Following the refusal of planning consent the Council served an enforcement notice in respect of the unauthorised development on 19th December 2017. The requirements of the notice were:

- (i) Remove all unauthorised caravans / mobile homes from the land.
- (ii) Remove all associated vehicles, gas containers and other extraneous materials from this site.
- (iii) Remove the hardstanding completely from the land.
- (iv) Cease the use of the land as a caravan site.

The period for compliance with the requirements was two calendar months from the date that the Notice took effect.

1.1.4 The family lodged an appeal to Planning Inspectorate for Wales against the refusal of planning permission and the enforcement notice. The appeal was subsequently dismissed on 6th December 2017 primarily for concerns relating to drainage and flooding. This decision is attached as Appendix A for information. The enforcement notice was therefore upheld with some variations to the wording.

1.1.5 This enforcement notice needed to be complied with within 12 months of the appeal decision, i.e. 6th December 2018. However, the family decided to appeal the decision of the Planning Inspectorate to the High Court and thus no further enforcement action was able to take place whilst the legal challenge was being concluded. The High Court upheld the Planning Inspector's decision in 2017. A further appeal against that decision was lodged to the Court of Appeal but was rejected in October 2019.

1.1.6 The development at the site is unauthorised and the enforcement notice has not been complied with. The Council is now in a position where it can (if appropriate) take further action but needs to give careful consideration as to how to proceed with the site whilst ensuring that the welfare of the family occupying the site is accommodated. The Housing (Wales) Act 2014 legislation places a statutory duty on local authorities in respect of homeless, including Gypsy & Traveller households or others threatened with homelessness. As a competent authority Monmouthshire County Council (MCC) needs to ensure that it safeguards the housing requirements of the family occupying the site. The Council therefore has a duty of care regarding homelessness and evicting the family from the site would result in the family not having a home.

## 1.2 Value Added

- The number of plots have been reduced from six to four to allow more space for drainage on the site.

- Three timber buildings to house five stables and three dog kennels have been removed from the proposals.

### 1.3 Proposal Description

1.3.1 The applicant intends to continue using the site as a permanent family pitch to accommodate four immediate family members and therefore the local planning authority has been asked to consider the newly submitted planning application and assess whether the proposals and any proposed mitigation to overcome the previous concerns with the development are acceptable.

1.3.2 The application seeks to rationalise the current layout to accommodate four individual pitches located along the eastern part of the site adjacent to the hedgerow along the perimeter next to the unclassified road. Each pitch would contain a residential mobile chalet/lodge, compliant with the definition in the various Caravan Sites Acts, space for a touring caravan, utility/dayroom and a parking area.

1.3.3 The day/utility rooms would have a gross floor area of 35m<sup>2</sup>, be 2.4m high to the eaves and 3.8m to the ridge. External building materials would be a combination of rendered walls painted white, or brick or timber cladding boards with a horizontal finish. The roof would be finished in blue/black man-made slate/tiles, and all windows and doors and water goods would be uPVC. These would also include a bird and bat box installed on one of the gable walls and external low intensity wall mounted down lights provided on each front elevation.

1.3.4 As there is no public sewer available within 33m of the site it is proposed to replace an existing (unauthorised) septic tank with a new British Standard biological Package Treatment Plant with sufficient capacity to service four residential units discharging the purified water to ground via a drainage field. All surface water would be disposed via soakaways.

1.3.5 It is proposed to supplement the existing tree and shrub planting already undertaken with additional planting as part of the required Green Infrastructure Statement / Scheme. All the established peripheral trees and hedges will be retained and supplemented except where part of the hedgerow is required to be removed to accommodate the emergency access track on the eastern boundary.

1.3.6 As recommended in the Flood Consequences Report (Appendix B) an ingress and egress track will be provided to the south of proposed unit 4 to give emergency access onto and from the unclassified road adjacent to the eastern boundary. This access would be 4m wide and gated. The loss of the small section of hedgerow will be compensated for elsewhere around the periphery of the site.

1.3.7 The existing main access apron would be improved with a hard surface for a distance of 5m from the carriageway edge and any access gates would be set back 10m.

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

<b>Reference Number</b>	<b>Description</b>	<b>Decision</b>	<b>Decision Date</b>
DC/2016/00297	The proposal is for a 4 plot gypsy site for one family - comprising 4 plots with space for mobile home, touring caravan, utility/amenity building and parking space.	Refused (Appeal Dismissed)	12.12.2016

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

## **Strategic Policies**

S1 LDP The Spatial Distribution of New Housing Provision  
S12 LDP Efficient Resource Use and Flood Risk  
S13 LDP Landscape, Green Infrastructure and the Natural Environment  
S16 LDP Transport  
S17 LDP Place Making and Design

## **Development Management Policies**

H8 LDP Gypsy, Traveller and Travelling Showpeople Sites  
DES1 LDP General Design Considerations  
EP1 LDP Amenity and Environmental Protection  
EP5 LDP Foul Sewage Disposal  
LC1 LDP New Built Development in the Open Countryside  
LC5 LDP Protection and Enhancement of Landscape Character  
GI1 LDP Green Infrastructure  
NE1 LDP Nature Conservation and Development  
MV1 LDP Proposed Developments and Highway Considerations

## **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 12**

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.

Paragraph 4.2.36 (pg. 62) of PPW Ed 12 (February 2024) states that: Local authorities are required to assess the accommodation needs of Gypsy and Traveller families, together with Travelling Show People, and to allocate sites to meet the identified need. Where a Gypsy and Traveller Accommodation Needs Assessment (GTANA) identifies an unmet need a planning authority should allocate sufficient sites in their development plan to ensure an unmet need a planning authority should allocate sufficient sites in their development plan to ensure that the identified pitch requirements for residential and/or transit use can be met.

All Councils in Wales have a duty under Part 3, Housing (Wales) Act 2014 to undertake a Gypsy, Roma and Traveller Assessment every five years. Where unmet need for mobile home pitches is identified, the necessary pitch provision needs to be facilitated. The last Gypsy, Roma and Traveller Assessment was adopted by Cabinet on 6th January 2021. The summary conclusions

identify a need for 13 pitches for families already living within Monmouthshire. This was approved by Welsh Government in June 2024. This need is broken down as follows:

- An unmet need of nine pitches under the assessment period 2020 to 2025;
- Beyond 2025, a further unmet need of four pitches over the remaining length of the Replacement Local Development Plan (2026-33) to accommodate family growth as children become adults and require their own pitch;
- No need was identified for travelling show people or circus people;
- The Assessment did not identify a need to provide a transit site and given the cross-border movement associated with families passing through local authorities, this topic is best addressed via the regional Strategic Development Plan.

## **Welsh Government Circulars**

### Circular 005/02018

National advice on Gypsy and Travellers is contained in Circular 005/2018 published in June 2018 and Paragraph 2 refers to Section 108 of the Housing (Wales) Act 2014 where Gypsies and Travellers are defined as:

- a) Persons of a nomadic habit of life, whatever their race or origin, including
  - (i) Persons who, on grounds only of their own or families or dependent's educational or health needs or old age, have ceased to travel temporarily or permanently, and (whether or not travelling together as such); and
- b) All other persons with a cultural tradition of nomadism or of living in a mobile home.

Section 101 of this Act also placed a duty upon local authorities to ensure that the accommodation needs of Gypsies, Travellers and Showpeople are accurately assessed and the identified need for pitches is met. This requirement is also contained in the Circular requiring Local Authorities to assess the accommodation needs of not only Gypsies and Traveller's but Showpeople residing in any county and make provision on either public or private sites. The Housing Wales Act 2014 places a duty on local authorities to assess the need for the provision of sites for mobile homes in their area and, where that need is identified in a GTANA, a local authority must exercise its powers under the Mobile Homes (Wales) Act 2013 to provide those sites.

Circular 005/2018 also advises that where a need for additional pitches has been identified through a GTANA a sequential test needs to be undertaken to assess the availability of suitable sites within or adjacent to existing settlements. However, this does not preclude consideration of other sites away from existing settlements being put forward by members of the Gypsy community as paragraph 39 states:

Sites in the countryside, away from existing settlements, can be considered for Gypsy and Traveller sites if there is a lack of suitable sustainable locations within or adjacent to existing settlement boundaries. In assessing the suitability of such sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. Over rigid application of national or development plan policies that seek a reduction in car borne travel in order to effectively block proposals for any Gypsy and Traveller Site in a countryside location would be inappropriate. Sites should be considered in context and in relation to the local infrastructure, population size and density to ensure they are in proportion to local settled communities.

### Welsh Government Circular 008/2018

Circular 008/2018 sets out 'Planning Requirements in Respect of the use of Private Sewerage in New Development, Incorporating Septic Tanks and small Sewerage Treatment Plans.' It provides advice on non-mains sewerage aspects of development so as to avoid environmental, amenity or

public health problems which could arise from the inappropriate use of non-mains sewerage systems. It states that the first presumption must always be to provide a system of foul drainage discharging into a public sewer. If it can be demonstrated that connection to a public sewerage system is not feasible, a package sewage treatment plant incorporating a combination of treatment processes should be considered.

## 5.0 REPRESENTATIONS

### 5.1 Consultation Replies

**Llanarth Fawr Community Council (comments received 28/6/24 in relation to the amended scheme for 4 pitches and foul drainage connection to ground – Object on the following grounds (summary):**

- 1. Site plan.** The site plan does not take account of key safety requirements contained within *Designing Gypsy and Traveller Sites* (Welsh Government, 2015) or the *Model Standards 2008 for Caravan Sites in Wales*. This means Drawing 07H Site Plan needs to be resubmitted showing appropriate gaps between site boundary and pitches, between mobile homes and pitch boundaries, and gaps between each individual mobile home and any other. Additional planting, walls or changed land levels should also be introduced in areas of empty space to prevent future unauthorised occupation of the site, as per WG Guidance. The redesign may impact on the drainage field proposals.
- 2. Inadequate drainage.** The proposed drainage field is unacceptable; the effluent is supposed to be discharged within the drainage field area, but given the drainage field is likely to be waterlogged (sitting on impermeable mudstone and within the physical flood plain of the River Usk and unnamed brook), not of sufficient depth, and is too small for the number of pitches, then effluent will spread off site, onto the highway and nearby Llanccayo House, especially as winters become wetter. Ongoing and regular maintenance is also a key factor in the successful operation of a drainage field, and experience of the existing septic tank does not inspire confidence.
- 3. Unmet need.** It is undoubtedly the case that Monmouthshire County Council has been slow to provide sites for the G/T community, and that there is unmet need. Whether unmet need outweighs issues concerning inadequate drainage and flood risk is a matter that has already been thoroughly tested through planning and judicial processes, and on such 'fact sensitive' cases, it clearly does not. In other circumstances and other areas – which do not present these key issues to be taken into consideration in the 'overall balancing' of a case – unmet need may well be a determining factor: but not at the Llanccayo site.
- 4. Flood risk.** It is for MCC to decide whether it is safe to ignore national policy on flood risk, set out by NRW in its response of 8th May: "highly vulnerable development should not be permitted in Zone C2 (paragraph 6.2 of TAN15). The justification tests in paragraph 6.2 of TAN15 do not apply to highly vulnerable development in Zone C2". The site is indeed an "island in terms of flooding" (see Appendix); the proposed pitches sit on slightly higher ground but just metres away from the highest risk Zone C2 (TAN15, 2014) / Zone 3 (revised TAN15, 2024), with a proposed emergency escape leading, in NRW's words, to a narrow lane "predicted to flood during the 1 in 100 year and 1 in 1000 year flood events both north of the site and at its junction with the B4598". Emergency services would not have safe access to the site during a flood event as even shallow waters can move vehicles. The conflict with national policy meant the Planning Inspector in 2017 did not consider it appropriate to request a Flood Consequences Assessment (FCA). Despite this, the applicants have submitted an FCA. Unfortunately it contains information from NRW's *Flood Risk Assessment Wales* map, and the *National Flood Hazard Maps*, which NRW advise have "no official status for planning purposes" and therefore applicants "should not use it to inform Flood Consequences Assessment to support planning proposals". The FCA should either be resubmitted using only appropriate maps and data, or ignored.

NB. Full detailed comments and appendices provided by Llanarth Fawr Community Council can be read in full on the Council's website: <https://planningonline.monmouthshire.gov.uk/online-applications/?lang=EN>

**Natural Resources Wales (NRW)** – We continue to have concerns with the application as submitted. To overcome these concerns your authority should carry out a Habitats Regulations Assessment (HRA) due to the site's location in a phosphorus sensitive SAC river catchment. We also provide you with advice over the risks and consequences of flooding. Further details are set out below..

Phosphates: The application site is within the catchment of the River Usk Special Area of Conservation (SAC). As you are aware, on the 21st January 2021, we published an evidence package outlining phosphorus levels for all river SACs across Wales. In line with our latest Planning Advice (June 2024), under the Habitats Regulations, Planning Authorities must consider the phosphorus impact of proposed developments on water quality within SAC river catchments. We therefore advise you to consider whether the proposals, as submitted, would increase the volume of foul discharge from the site in planning terms. We welcome the revised drainage proposals comprising a new package treatment plant discharging domestic wastewater to ground. Prior to the discharge to ground, the wastewater will pass through a phosphorus filter consisting of a limestone bed. As the proposed private system has been changed, the applicant has revised their Nutrient Neutrality Assessment and Mitigation Strategy (NNA), which has been prepared by Enviren, dated 12 June 2024.

Given the proposal is now for a discharge to ground (not surface water as previously proposed) there is less importance on the applicant to demonstrate the site's phosphorus balance calculation. However, we have considered the NNA and balance calculations and are satisfied with the conclusions.

The NNA gives a percolation value ( $V_p$ ) obtained from site of 69.4. However, there are no details of the porosity test results provided. You should ensure these are correct and available to evidence in your HRA. The NAA also states that "the number of people to be served by the Drainage Field (conservatively assumed as 18 as per Natural England recommendations)". Ultimately, it is a matter for your Authority to decide if this level of occupancy appropriately reflects how the site will be populated based on your understanding of the development proposal. It is not known how many bedrooms are proposed in each unit and you may wish the applicant to clarify this.

An 18 people occupancy and a daily flow of 150 litre equates to an effluent discharge of 2.7m<sup>3</sup> per day. This is in excess of the 2m<sup>3</sup> per day figure referenced in the Planning Advice to screen out a proposal. In addition, the drainage field is located less than 40m from a watercourse. On these bases, the proposal is unlikely to screen out as not likely to have a significant effect on a river SAC in relation to phosphorus inputs.

We therefore advise your Authority to undertake a Habitats Regulations Assessment (HRA). Should you determine that an Appropriate Assessment is required, the Applicant will then need to submit whatever evidence they deem appropriate (seeking advice from consultants as may be necessary) to demonstrate no adverse effect on site integrity. You should then consult us on your Appropriate Assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

We refer also to the comments made by third parties and uploaded to your planning portal in respect of two wells, a spring and a proposed borehole in vicinity to the site. This may need to be considered further in your HRA.

**NB. The Council have undertaken a draft Appropriate Assessment (AA) under the Habitats Regulations that outlines that the development would not have significant impact on the integrity of the River Usk SAC. Members and the public can view the AA via the MCC website and as an Appendix (C) to this report [DM/2024/00355 | The creation of a travellers site incorporating five bespoke family related pitches with one static and touring caravan and day/utility room per pitch, emergency flood access, installation of private treatment plant and ecological enhancements \(partially retrospective\). | New Stables Land Opposite Llancayo House Abergavenny Road Llancayo Monmouthshire](#)**

## Flooding:

The planning application proposes highly vulnerable development: a travellers' site. We confirm the site is within Zone C2 of the Development Advice Map (DAM) contained in Technical Advice Note (TAN) 15: Development and Flood Risk (2004). The Flood Map for Planning (FMfP) identifies the application site to be at risk of flooding and falls into Flood Zones 2 and 3 Rivers. We refer you to Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9 January 2014, which affirms that highly vulnerable development should not be permitted in Zone C2 (paragraph 6.2 of TAN15). The justification tests in paragraph 6.2 of TAN15 do not apply to highly vulnerable development in Zone C2.

Whilst we note the revisions to the proposed development which now comprises 4 pitches rather than 6 and the removal of the stables and kennels from the proposal, no updated Flood Consequences Assessment has been submitted. Therefore, our comments on the acceptability of the risks and consequences of flooding remain as set out in our letter of 8 May 2024.

Based on the revised Proposed Site Plan, Drg No 07H, dated 12 June 2024 it shows no built development is proposed within the area shown to be at risk of flooding. Only the main access/egress to the site, a section of the driveway and a grassed area lie within the area of the site predicted to be at risk of flooding.

### Comments on flooding 8 May 2024:

We refer you to Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9 January 2014, which affirms that highly vulnerable development should not be permitted in Zone C2 (paragraph 6.2 of TAN15). The justification tests in paragraph 6.2 of TAN15 do not apply to highly vulnerable development in Zone C2. Notwithstanding this policy position, we have reviewed the Flood Consequences Assessment (FCA) JBA, dated March 2024, referenced LVZ-JBAU-XX-XX-RP-001 to provide you with technical advice on the acceptability of flooding consequences in accordance with Appendix 1 of TAN15.

The FCA has not demonstrated that in accordance with A1.14 of TAN15 the proposed development is predicted to be flood free in the 1% plus an allowance (25%) for climate change (+CCA) flood event. However, we note that the proposed layout results in the proposed residential accommodation being located outside the flood event outlines as indicated by the Flood Map for Planning (FMfP). The caravans are to be housed to the east of the site with the main access via the north-west. Along the eastern boundary is a proposed emergency access point to be accessible at all times.

Although the residential elements of the proposal are located outside the flood outlines on the MP, the proposed development site is not shown to be designed completely flood free during the 1%+CCA event as per national planning policy.

### A1.14 of TAN15

The FCA states that the main access road into the site is shown to be at risk of flooding in the 1% (1 in 100 year) (present day) event with depths of up to 200mm. This is contrary to A1.14 of TAN15 which advises all new development should be flood free in the 1% +CCA event. Predicted depths are likely to be higher when the allowance for climate change is added.

The FCA suggests that given the scale and nature of the development, it is disproportionate to include climate change with a hydraulic model to ascertain the predicted flood depths in the 1%+CCA event. Whilst we would normally advise flood risks to/from the site are assessed using the 1% +CCA fluvial flood event depths and levels, in this case as the FMfP includes climate change in the outlines and the residential elements of the proposal are located outside these outlines we offer no adverse comment in this regard. Whilst the FMfP is of a broad scale, it does give a precautionary assessment of the flood risk.

### A1.15 of TAN15



The MP also indicates all proposed residential areas are located outside the 0.1% (1 in 1000 year) flood outline. An area in the north-west of the site is predicted to flood during the 0.1% flood event. The FCA states that flood depths are typically less than 400mm and are not predicted to exceed 600mm.

#### A1.12 of TAN15

##### Flood Risk Elsewhere

The FCA concludes that the proposed development shall not increase flood risk elsewhere. An area of land in the north-west of the site which is predicted to be at risk of fluvial flooding shall remain the same post development, therefore the development will not increase flood risk to third party land. (Given the scale of the proposed stables and the flood depth on site, we consider this is unlikely to increase flood risk elsewhere post development).

##### Access/Egress

Flooding of the main access road in the north-west is predicted up to a maximum depth of 294mm, this is within the tolerable limits (600mm) suggested within A1.15 of TAN15 for access routes on residential sites.

The emergency access to the eastern boundary of the site is predicted to be flood free during all events. Access / egress to the site is available from the eastern boundary, in a northerly direction, where flood depths are less than 300mm on the unnamed highway.

TAN15 advises that access routes should be shown to be operational under all conditions. It is for your authority to determine whether you consider these risks to be acceptable.

##### Flood Risk Summary

Although the residential elements of the proposal are located outside the flood outlines on the MP, the proposed development site is not shown to be designed completely flood free during the 1%+CCA event as per national planning policy. The access is predicted to flood in the 1% flood event. Should your Authority require a 1%+CCA flood depth for completeness, hydraulic modelling would not be necessary. Instead, the applicant could, for example, compare the FMfP outlines, which include climate change, with the site topography to ascertain an approximate flood level for the 1 in 100 year plus climate change flood event.

It is for your Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15, we recommend you consider consulting other professional advisors on matters such as emergency plans, procedures and measures to address structural damage that may result from flooding. Please note, we do not normally comment on the adequacy of flood emergency response plans and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.

Ecology: We recommend you seek the advice of your in-house ecologist to determine the scope of any Ecology surveys required to support this application. Please consult us again if any survey undertaken finds that bats are present at the site and you require further advice from us.

**Dwr Cymru – Welsh Water (DC-WW)** - We note from the application that the proposed development does not intend to connect to the public sewer network. As the sewerage undertaker we have no further comments to make. However, we recommend that a drainage strategy for the site be appropriately conditioned, implemented in full and retained for the lifetime of the development.

**MCC Environmental Health (Contaminated Land)** - The contaminated land conditions I recommended are designed to be a staged approach, meaning that if the desktop study (undertaken by a suitably qualified contaminated land professional) which should include a site walk over, does not consider the use of the site has resulted in land contamination, then the full site investigation (sampling etc) and remediation/validation would not then be required.

In light of the fact that the site was greenfield, until being used for residential use by its current occupiers, I believe that a proportionate approach would be to use an unforeseen contamination condition.

**MCC Environmental Health (Foul Drainage) – We have** looked at the proposed treatment system and providing that it meets current British Standards, which the document advises it does, then I do not anticipate there to be an unacceptable risk of noise or odour to nearby residents from the proposal.

**MCC Lead Local Flooding Authority** - Flood risk maps provided by Natural Resources Wales indicates parts of the site to be at risk of flooding.

Our database of previous flood events does not record surface water flooding in close proximity to the site.

Our database of drainage and flood assets does not record any drainage or flood assets in close proximity to the site.

The revised plans show the stable blocks to have been removed, this removes our concern around finished floor levels. However we would request the condition below is still included on the decision notice:

The finished floor levels for all buildings, residential or otherwise, will need to be set a minimum of 300mm above the predicted maximum flood level on the site.

Reason: To prevent buildings from flooding and reduce the risk of contaminants being mobilised from stable facilities during flood events, and to prevent animals being trapped in a flood event.

The applicant has now indicated the location of suitable Non Return Valves on the foul system.

**MCC SAB** - The applicant has now demonstrated that the proposed infiltration blanket approach should have sufficient capacity to manage all surface water from the site in a 100 year + climate change event.

Further ground investigation will be required across the site to support the SAB application when this is submitted, this will also include an assessment of the drainage of the existing surfaces across the site to ensure that the development does not increase on site or off site flood risk.

**MCC Lead Local Flood Authority – No objections.**

Flood risk maps provided by Natural Resources Wales indicates parts of the site to be at risk of flooding.

Our database of previous flood events does not record surface water flooding in close proximity to the site.

Our database of drainage and flood assets does not record any drainage or flood assets in close proximity to the site.

The revised plans show the stable blocks to have been removed, this removes our concern around FFL.

The applicant has now indicated the location of suitable Non Return Valves on the foul system.

**MCC Landscape/GI** - No objection subject to conditions (see end of report).

**MCC Highways** - No objection subject to condition (see end of report).

**MCC Biodiversity** – A Holding Objection has been raised based on the foul drainage proposals, which as they stand will need an Appropriate Assessment to be agreed with NRW. Should the Members be minded to recommend planning approval, the following conditions should be adopted:

1. Species Construction Method Statement to include details of measures to protect Nesting Birds, Hazel Dormice and Hedgehogs
2. Hedgerow Mitigation and Biodiversity Net Benefit

No ecological information has been submitted to inform the application. It should be noted that, despite its retrospective nature, a proposal of this size and nature would ordinarily require a Preliminary Ecological Appraisal in order to detail the baseline ecological conditions of the site.

Nevertheless there is confidence that valuable habitats on site now appear to be limited to the boundary hedgerows and treelines. It is noted that the net benefit for biodiversity proposals did require further measures to be proportionate but have been supplemented with additional planting (wildflower meadow).

The site is within the catchment area for the River Usk SAC and therefore the impacts of increased phosphorus loading on the SAC will need to be considered via a Habitats Regulations Assessment. It is understood that at present, foul drainage is discharged to an unpermitted septic tank situated on site. The current proposals, as detailed on the 'Proposed Site Plan', involve the installation of a GRAF One2Clean Package Treatment Plant (PTP) which will discharge wastewater into a filter system before ultimately being discharged to ground. Due to the drainage field being located within 20 metres of a watercourse, an Appropriate Assessment will be undertaken and submitted to NRW for agreement.

**MCC Building Control** - The drainage proposals for the site are satisfactory. The proposals have been designed in accordance with Approved Document H.

**MCC Heritage** – No objections.

The site is located to the east of Llancayo House on the opposite side of the road. The nearest designated heritage asset are the Grade II Listed Buildings of Llancayo House, Barns and Llancayo Windmill. Llancayo forms a complex of the main house, converted barns and out buildings, together with the restored and converted windmill. The buildings, a substantial Late Georgian Villa is set in open parkland/countryside with the setting primarily to the west side of the road towards the river.

The house is set away from the road, albeit orientated to face it, with the complex of substantial and varied group of barns to the north set closer to the road. The windmill further west set away, as expected, from the group. The historic maps show a bank of trees to either side of the entrance which still remain today, a number of which are TPO'd. The proposed site plan shows the retention of the bank of trees and hedgerow to the western edge of the proposed site adjacent to the road. In addition, this could be supplemented with native trees to infill the gaps.

In terms of Heritage impact the consideration is the consideration of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. To have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The development does not physically affect the listed building, therefore it is a consideration of the setting of the assets. The setting, noted above, of a large Late Georgian Villa, set in its own grounds with ancillary farm buildings, enjoy most of this aspect to the west behind a substantial bank of trees to the east possibly planted to screen the house. Given that the listed buildings are set on the opposite side of the road with two banks of trees in between it is not considered that the proposed development would have a detrimental impact on the setting of the listed buildings.

**MCC Rights of Way** – No objections. The applicant's attention should be brought to Public Footpath 64 in the community of Gwehelog Fawr which runs within the site of the proposed development. The Proposed Site Plan shows the existing alignment of the public right of way within the site and Public Path no. 360/64 must be kept open and free for use by the public at all times. No barriers, structures or any other obstructions should be placed across the legal alignment of the path, and any damage to its surface as a result of works or private vehicular use must be made good. If the path needs to be temporarily closed to allow works, the applicant should apply for a temporary traffic prohibition order.

**MCC Emergency Planning (comments in relation to the Flood Response Plan submitted)** – No objections. It is evident that by capturing and outlining the risk in detail and putting this document forward the applicants are thinking about the consequences and taking actions to mitigate the risk. I can only encourage the continued revision of the document going forward and support the need to maintain a Flood Response Plan for the site.

## **SEWBRc Search Results** – Hazel Dormice recorded within the vicinity of the site.

### 5.2 Neighbour Notification

Eleven representations received objecting to the application. These have been divided into main categories for ease of reference.

#### Principle of Development:

- This application has no merit and should be rejected without delay or debate. It does not deserve consideration or consultation after the previous application was decided, appealed and subsequently upheld.
- I cannot understand why the decision to the original application has not been enforced with action to evict and the fact that this follow-up application is even being considered.
- How does this new application change or take away the key reasons for the original rejection?
- This is a stalling tactic and a big waste of time and money.
- The site is agricultural.
- If the occupants of the site need housing assistance that is well within the council's purview to resolve, and it should do so.
- Whilst most must obtain approval for window replacement styles, roof tiles, etc. this applicant has ridden roughshod over the process by occupying agricultural land.
- Unequal application of the planning process.
- If the planning department cannot enforce their decisions, the usefulness of the department is suspect.
- While traveller needs are part of the equation, another part is the recognition of the interests of the settled community surrounding it and the health & safety issues that may arise from its expansion.
- MCC have failed to uphold the rights of local residents who expect Planning rules and regulations to be followed by all and enforced when needed.
- The applicant states that the residents currently living illegally on the site have integrated into the local community. This is not the case.
- The new amended plan, dated 21st May 2024, without the stables and kennels, is now purely a residential planning application in open countryside, which we feel is in contradiction to the surrounding area which has a wealth of ancient, historic and archaeological significance within the proximity.

#### Visual Impact:

- The site has been developed extensively already and stands out.
- There is a large quantity of vehicles of varying states of repair strewn on this site.
- It is an eyesore on the landscape which is magnified during the winter when the boundary trees drop their leaves.
- The many objections to the previous application are now more valid with this extended application.
- The site in question has critical drainage issues and sits on a natural flood plan which further indicates that it is not a suitable location for development.
- Visually negative impacts at the site is clearly a traveller site and the connotations that come with that impact the local community, stress local resources with no real benefit and negatively impact house price values. Ultimately negatively impacting the area/district.

#### Residential Amenity:

- The existing development already makes the footpath impassable. The aggressive dog barking is intimidating.
- A development of this size would result in a significant increase in the population and will have a serious impact on noise levels and traffic.

- Noise impact as the increased density will add extra traffic.
- The occupants already conduct outdoor fires and anti-social behaviour on a regular basis.
- Disturbance at the site already includes several noisy vehicles without MOTs, this regular disturbance at all times of the day and night will likely continue to increase as more residents descend on the site.
- Overdevelopment at this site could potentially turn into a pollution issue in time.

#### Highway Safety:

- The new proposal is even more busy in terms of number of dwellings and the likely increase in through traffic.
- Unacceptable decrease in road safety, there would inevitably be more traffic.

#### Flooding:

- The application is flawed in its suggestion that minor tweaks can meet the requirements of TAN15. This is a document which was produced to ensure developments can be certain that safety considerations have been fully met. TAN15 regulations are not negotiable, therefore, the proposed development cannot meet these requirements.

#### Drainage:

- It is not right or fair that they should discharge waste from a water treatment plant which will run into our stream, our property (Llancayo House).
- If discharge into a stream was allowed - it has to be a running stream - the stream at Llancayo is dry over the summer months - last year it was dry from June until August. Therefore, is against the NRW Guidance for the Registration of Small Sewage Effluent Discharge.
- Paddock at Llancayo House has recently been designated a 'Local Wildlife Site' and changes in the phosphate levels caused by discharging into our stream will affect the ground and delicate wildlife systems.
- Increased phosphate levels can come from septic systems, fertiliser run-off and wastewater.
- River Usk water quality will be affected.
- Drainage would it create a pollution problem but also a health risk for the surrounding area and people. Planning should not be considered until an alternative solution is found.
- Llancayo House pasture land, directly opposite the ground applying for planning, has recently been designated a Local Wildlife Site. The intended watercourse, in the planning application, runs through this site, which could be detrimental to the habitat and status of the ground.

#### Further comments received following re-consultation on reduced pitches scheme:

- Continue to be disillusioned that this proposal is still being considered.
- This is an advert for traveller/gypsies to flout the law and legitimise what was originally an illegal purchase and inhabitation of the site.  
The entrance should be located at the far end of the site on the T junction thus not posing a risk to accidents.
- These are static plots, these are no longer travellers but permanent dwellers.  
The area to the front of the site has never been overwhelmed by flooding and the secondary access is wholly unnecessary.
- It would be safer if the access was located on the T junction.
- The precise locations of these existing structures must be marked on the plans to facilitate discussions about the potential risk of contamination, not only to the site itself but also to the adjacent areas.
- Although the latest application does not mention the stables/kennels, their presence is likely to remain.

- As the proposed emergency access leads onto a narrow, single track, unclassified lane it would seem appropriate for an application to be made for a S184 agreement and for consent to be given by MCC Highways, before the full planning application is determined.
- The proposed condition put forward by Environmental Health puts the responsibility for reporting contamination on the applicant, rather than any independent person/body, which is the recommended approach.
- Lack of net benefit for biodiversity.
- The proposal does not comply with Policy LC1.
- Whether the treatment plant run off is via stream or ground, the water and pollutants will leach into the stream and after rain.
- Site area is given as 0.44 hectares/1.08 acres in 2016 {re application DM/2016/00297}. It was given as 0.52 hectares/1.28 acres in the current Planning Statement and Justification report. It was given as 0.55 hectares/1.35 acres in the Nutrient Assessment report. Which figure is correct?
- Further clarity would be welcome to define ownership of the hedges.

### 5.3 Other Representations

None.

### 5.4 Local Member Representations

Cllr Neil – No comments received to date.

Please note all representations can be read in full on the Council's website:  
<https://planningonline.monmouthshire.gov.uk/online-applications/?lang=EN>

## **6.0 EVALUATION**

### **6.1 Principle of Development**

6.1.1 It has been established that the lifestyle of the applicant and their family falls within the definition of Gypsies and Travellers in Welsh Assembly Government Circular 30/2007 - Planning for Gypsy and Traveller Caravan Sites and Section 108 of the Wales Housing Act; the main Local Development Plan (LDP) Policies relevant to the determination of this application are Policy H8 - Gypsy, Traveller and Travelling Showpeople sites, DES1- General Design Considerations and EP1 - Amenity and Environmental Protection. Also, of relevance is the Gypsy and Traveller Accommodation Assessment 2016 and the 2021 GTANA which identified the applicant and her immediate family members as being in need of accommodation.

6.1.2 The Council's most recent GTANA was completed in 2021 and, in summary, the conclusions are a need for 13 pitches for families already living within Monmouthshire. The need can be broken down as follows:

- An unmet need of nine pitches under the assessment period 2020 to 2025.
- Beyond 2025, a further unmet need for four pitches over the remaining length of the Replacement LDP (2026 to 2033) to accommodate family growth as children become adults and require their own pitch.
- There is no need for an allocation for travelling show people or circus people.
- The assessment did not identify a need to provide a transit site.

6.1.3 The above assessment considers accommodation requirements for the period of the replacement LDP 2018 to 2033. Of the thirteen pitches need as identified in the 2020 to 2025 GTANA, two pitches have been granted planning permission in 2022. This reduces the pitch requirement to eleven although the location of any pitches is yet to be determined. The family that have submitted this planning application is identified within this housing requirement and are in

need of pitches to accommodate the family. The Council is seeking to meet Gypsy and Traveller additional pitches through a variety of ways including:

- Public sites using Council-owned land. This can be achieved by using land currently owned by the Council or they could potentially purchase land for the purpose of providing a public site.
- Invite the public to put forward land for consideration (as is the case with this application).

6.1.4 The Council is taking a pro-active approach to identify land within the RLDP to meet this housing need and support the Gypsy and Traveller Community. However, at this point in time, in the event of a planning application being submitted by either public or private sector parties, where a need has been identified, current LDP Policy H8 applies

6.1.5 Policy H8 of the LDP states that where a need is identified for transit or permanent pitches/plots for the accommodation needs of Gypsies, Travellers and Travelling Showpeople, they will be permitted provided they:

- a) Would enable the established need to be met at a location that is accessible to schools, shops and health care, by public transport, on foot or by cycle.
  - b) Have a safe and convenient access to the highway network and will not cause traffic congestion or safety problems.
  - c) Are of a suitable size to allow for the planned number of caravans, amenity blocks, a play area (for children on sites housing multiple families), the access road and include sufficient space for the parking and safe circulation of all vehicles associated with occupiers within the site curtilage;
  - d) Do not occupy a prominent location and are consistent with LDP policies for protecting and enhancing character and distinctiveness of the landscape and environment. Where necessary the proposal will include mitigating measures to reduce the impact and assimilate the proposal into its surroundings e.g. screening and landscaping.
  - e) Avoid areas at high risk of flooding and proximity to uses with potential sources of pollution or emissions.
  - f) Are of an appropriate scale to their location and do not have an unacceptable impact on the amenities of neighbouring land uses.
  - g) Are served, or can be served, by adequate on-site services for water supply, power, drainage, sewage disposal and waste disposal (storage and collection), and for Travelling Showpeople that there is a level area for outdoor storage and maintenance of equipment.
- Proposals for the use of land for emergency pitches to meet proven need for use by gypsies and travellers will provide basic facilities, meet criteria b, d, e and f of this policy, and the location should be within reasonable travelling distance of a settlement with services.

6.1.6 Policy H8 sets out the criteria for assessing such planning applications through the development management process. The policy does not preclude pitch development outside of settlement boundaries where it can be demonstrated that there are no other sites available within or adjacent to existing settlements and that very special circumstances exist. No other sites within or adjacent to settlements in the County have been identified at this time.

6.1.7 The applicants have been living on this site for over 8 years and now need permanence to ensure a peaceful, safe and settled family base for their children's medical and education needs as they have nowhere else to live. Since the decision to dismiss the appeal in 2017 the Council has not taken any further action to secure the cessation of the use and removal of caravans given its duty under The Housing (Wales) Act 2014 legislation that places a statutory duty on Local Authorities in respect of homeless Gypsy & Traveller households or those threatened with homelessness.

The other requirements of Policy H8 are discussed in detail below.

## **6.2 Good Design / Place Making**

6.2.1 The site is capable of accommodating four pitches laid out to comply with advice in the Designing Gypsy Traveller Sites Guidance document issued by the Welsh Government in May 2015. It is also proposed to create an on-site play area for the occupants of the site. The proposed new day rooms would be of similar ridgelines of 3.8m and 3.6m, which is broadly consistent with existing structures on site that are already well-screened by mature boundary hedgerows. These boundaries would be bolstered by new tree planting and infilling of any gaps.

6.2.2 Considering the low-level nature of caravans and ancillary buildings the Inspector who determined the previous appeal considered the development on the appeal site would not be visually prominent and would cause limited harm to the character and appearance of the surrounding countryside. The Inspector disagreed with the Council's third reason for refusing the previous application on visual impact stating that, "Whilst it is visible in part, for example the tops of the caravans can be seen at certain points from long range travelling south along the B4598 towards Usk, views of the development are primarily limited to glimpses through the access and gaps in the vegetation when passing along the site frontage. For the most part, the site is largely screened by the existing vegetation along the site frontage and the hedgerow separating it from the fields beyond. In visual impact terms therefore, it is the access itself which is most visible, which is not dissimilar to others along this stretch of the highway."

6.2.3 On the basis of the above, the Inspector, while dismissing the appeal on flood and drainage grounds, concluded that the location of the site was acceptable and the scale of the development together with the position of the caravans and associated parking, did not seriously harm the character and appearance of the rural landscape.

6.2.4 The conclusion of the Inspector in this regard is agreed and it is not considered that there would be significant visual harm caused by the proposed development, including the very limited and localised impact of the proposed emergency access track that would add a relatively small opening through the hedgerow on the eastern boundary of the site.

As such, it is considered that there is no conflict with the provisions of LDP Policy DES1.

### **6.3 Landscape**

6.3.1 The site is located in the open countryside on the edge of the hamlet of Llancayo and currently consists of a small caravan site with associated buildings bounded by existing hedges and an agricultural field to the north accessed from the Abergavenny road to the west and bounded by a lane leading to upper Llancayo to the east.

6.3.2 The site is opposite the entrance to the Cadw-listed Llancayo House as well as the Llancayo Court business area to the north-west. Intervisibility is obscured by existing trees and vegetation. The site includes a short section of an existing public right of way (PROW).

6.3.3 The site lies within the Upper Usk Valley landscape character area typified by a flat, river valley floodplain, of alluvium soils flanked by low river terraces of sand and gravels. It is a landscape of outstanding ecological interest identified as a rare example of a large mesotrophic lowland river. Small enclaves of wetland habitats are particularly important and are found along the lower Usk floodplain below Abergavenny. Large fields of arable crops and improved pasture dominate. It is an open landscape, with means of enclosure provided only by low intensively managed hedges, in places replaced by post and wire fencing, individual field trees, hedgerow trees and linear tree belts with sinuous lines of willow and alder, following water courses.

6.3.4 An analysis of the relevant sensitivity appraisals from LANDMAP information indicates that the Landscape Character Area has been evaluated as;

Visual and Sensory - 4% Outstanding, 90% High  
Landscape Habitats - 5% Outstanding  
Historic Landscape - 7% Outstanding, 89% High  
Cultural - 36% Outstanding 64% High



6.3.5 From an LDP Policy perspective, Policy LC5 (Protection and Enhancement of Landscape Character) highlights that development will be permitted provided it would not have an unacceptable adverse effect on the special character or quality of Monmouthshire's landscape in terms of its visual, historic, geological, ecological or cultural aspects. The Council's Landscape & Urban Design Officer has advised that from a Landscape and GI perspective that the proposal is broadly acceptable.

6.3.6 The site has established mature boundaries of hedgerow and trees which have been able to reduce existing development impacts on the wider landscape during late spring to late autumn. The applicant has provided a relatively comprehensive assessment of the site, a GI Statement summarising the step-wise approach to minimise impacts and the provision of compensatory tree planting for the loss a small section of hedge within a revised layout that rationalises the existing layout. It is noted that there is no aftercare prescription for the proposed landscaping. This can be provided as a condition of approval should Members be minded to approve the application.

As such, it is considered that the proposed development would not have an unacceptable adverse impact on the character of the landscape and the provisions of LDP policies LC1 and LC5 have been met.

## **6.4 Green Infrastructure**

6.4.1 In line with Chapter 6 of PPW12, a step-wise approach has been undertaken to assess and secure net benefits for biodiversity via this proposed new development. Firstly, considering avoidance, minimising impact and then enhancement and long-term management on site. During this particular assessment off-site compensation measures were not considered to be needed and would, however, only be considered as a last resort. The overall intention of PPW12 is to continue and enhance the Section 6 duty to maintain and enhance biodiversity as part of new development proposals. The changes in PPW12 include the requirement of the submission of a 'proportionate' green infrastructure statement; the need to consider biodiversity net gain, enhancement and long-term management at each step, promoting new planting as part of development based on 'securing the right tree in the right place.'

6.4.2 As such, a Green Infrastructure Statement has been provided with the application supported by Drawing 07H (Proposed Site Plans). The statement takes into account the further advice set out in the accompanying annexe where considered relevant, which refers to the concept of the 'step-wise approach' to assessing impacts upon habitats and species (avoid – minimise – mitigate/restore – compensation –enhancement).

6.4.3 In line with the step-wise approach 'avoidance and minimisation' have been the first considerations. As such the proposal ensures minimal disturbance to the surrounding environment. Consideration has been given to the potential impact on local ecosystems, water usage, and waste management. The following biodiversity net gains / ecological and landscaping enhancements are proposed:

- The proposal seeks to mitigate and remove any waste materials further and debris improving the visual appearance proposing a significant landscaping enhancement and details a scheme and schedule. (See Drawing 07H)
- The proposal seeks to mitigate and improve tree/ hedgerow provision by offering an additional tree and hedge planting scheme having regard the size of the application site and surrounding features. The applicants have carried out extensive shrub and tree planting throughout the site since their occupation.
- All existing boundary trees and hedges will be retained other than where the necessary emergency access is proposed. A replacement / translocated hedge is offered as mitigation inside the site.
- The site is not located within a Green Wedge or Special Landscape Area.
- The proposal avoids any designated or protected sites, and therefore any damage to biodiversity or ecosystems.

- The proposal includes biodiversity enhancements, which include the proposed landscaping and native planting, but also the incorporation of bird and bat boxes and hedgehog nest boxes, within the overall development.
- A sustainable drainage system forms an integral part of the development with foul water.
- Drainage disposed via a replacement biological treatment plant of sufficient capacity to cater for the residential units and a sustainable urban drainage system will be installed to deal with surface water.
- A Nutrient Neutrality Assessment and Mitigation Strategy details the proposed measures to neutralise phosphates emanating from the treated foul water from the treatment plant.

The above measures are considered to be appropriate and proportionate to the scale and type of development involved and meet the aims and objectives of PPW12 as well as the requirements of LDP Policy G11.

## 6.5 Biodiversity

6.5.1 Priority habitat on site is limited to the boundary hedgerows and treelines. The 'Proposed Site Plan' shows the creation of a proposed new gated emergency access that will require the removal of a section of hedgerow along the eastern boundary. This will be mitigated through the proposed planting of a native hedgerow within the site boundary.

6.5.2 Records of Hazel Dormice have been returned from within 1km of the development site. The hedgerows along the site boundary offer suitable habitat for hazel dormice and extensive removal of this habitat will likely require a dormice licence to be obtained from NRW. The present proposals include the creation of a proposed new gated emergency access that will require the removal of a section of hedgerow along the eastern boundary. This will be mitigated through the proposed planting of a native hedgerow within the site boundary.

6.5.3 The hedgerows bounding the site have the potential to support a range of nesting birds. Consequently, any hedgerow removal should be undertaken outside of the nesting bird season (March – August) or, if this is not possible, supervised by an experienced ecologist.

6.5.4 Planning Policy Wales (PPW) 12 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.” This policy and subsequent policies in Chapter 6 of PPW 12 respond to the Section 6 Duty of the Environment (Wales) Act 2016. The following biodiversity net gains / ecological and landscaping enhancements are proposed:

- Shrub and tree planting throughout the site since occupation.
- All existing boundary trees and hedges will be retained other than where the necessary emergency access will be located. A replacement / translocated hedge is offered as mitigation inside the site.
- The provision of bird and bat boxes and hedgehog nest boxes, within the overall development.
- A sustainable drainage scheme.
- Measures to neutralise phosphates emanating from the treated foul water from the treatment plant.

6.5.5 As the application is partly retrospective, the following wording from PPW 12 must be considered: “Where a site has been cleared prior to development its biodiversity value should be deemed to have been as it was before any site investigations or clearance took place. A net benefit for biodiversity must be achieved from that point.” Satellite imagery shows that the site was grazed pasture, of low ecological value, prior to occupation. The planting of a number of native trees, the provision of a wildflower meadow and the provision of bat/bird boxes is welcomed. Considering the low biodiversity value of the previous grazed pasture, the provision of additional habitats, foraging opportunities and shelter for a range of species should provide a moderate increase in the overall biodiversity value of the site. Thus, the measures proposed, are considered to provide a proportionate response to the need to provide a net benefit for biodiversity.

## **6.6 Impact on Local Residential Amenity (including Noise and Foul Drainage)**

6.6.1 The application site is approximately 230m away from the existing dwellings to the north and given this significant intervening distance, there would be no adverse impact on any occupiers in terms of loss of privacy through over-looking, overshadowing or excess noise or disturbance.

6.6.2 Representations received in response to the publication of the planning application have raised concerns that an aggressive barking dog has made the footpath running adjacent to the site impassible. Barking dogs are not uncommon in any residential or farmyard setting and as the application site is separated by a hedgerow, , dogs could not be expected to stray onto the footpath. It would therefore be unreasonable to refuse the application on the basis of that perceived threat. Should any barking dogs become a statutory noise nuisance then the issue would be dealt with under Environmental Health Regulations.

6.6.3 In terms of impacts from noise and traffic generated by the permanence and increase in size of the site, there would be no additional plot(s) to make any impact on traffic or noise levels above and beyond what is already existing. The Council's Highway Officers are content that the means of access as detailed accords with current design standards and in the previous appeal decision, the Inspector considered that there would be adequate space for parking and vehicle movements within the site. This is also demonstrated on the plans now submitted (see Section 6.7 below).

6.6.4 Local residents have also raised the issue of noise from vehicles kept on the site. The keeping of vehicles associated with a (relatively small) residential use would not be cause for concern given the associated land uses that feature residential and agricultural uses. Should engine noise become excessive, the Council's Environmental Health team has powers to investigate as a Statutory Nuisance. The same applies to outdoor fires and anti-social behaviour.

6.6.5 In terms of potential pollution of the site due to overdevelopment, a new private treatment plant is now proposed to drain to ground. A Nutrient Neutrality Assessment and Mitigation Strategy (NNAMS) prepared by Enviren Ltd has been submitted in support of the application. This demonstrates that the development will achieve Nutrient Neutrality through the introduction of a new high functioning Package Treatment Plant (PTP) connected to a P filter which provides final cleansing and SuDS resulting in no additional phosphorus being discharged. The proposed treatment plant and drainage field have been designed to British Standards and meet the requirements of Approved Document H which is part of the Building Regulations.

6.6.6 The details of the proposed method of foul drainage have been assessed by NRW, and MCC Building Control, Environmental Health and Biodiversity Teams and they have all confirmed that it has been demonstrated that the foul drainage solution proposed would be an improvement on the existing arrangement of a septic tank and it would function appropriately at the site. The proposed PTP will drain to ground and there will be no direct route to a watercourse. As such, the development and will not have a significant impact on local amenity in terms of pollution or odour and will not harm the water quality of the River Usk.

6.6.7 The residential amenity of the people living on the application site is also a material consideration. In terms of the layout of the site itself, the requirements of the 'Model Standards for Caravans in Wales' (2008) does not apply to Gypsy and Traveller sites. Instead, the Welsh Government has produced a document called 'Designing Gypsy and Traveller Sites' (2015). This document is intended as a guide to Local Authorities in providing appropriate services for Gypsies and Travellers living on residential sites in Wales. It contains practical guidance to assist Local Authorities to ensure their sites are fit-for-purpose. It should be noted that this guidance is not statutory.

6.6.8 The guidance suggests that in line with the 2008 Model Standards for Caravan Sites in Wales, a gap of 3 metres should be observed between a mobile home and any pitch boundary and each individual mobile home should be spaced at a distance of no less than 6 metres from any other mobile home. This is because mobile homes are highly flammable and helps to ensure privacy from neighbouring households. In this case there is a distance of approximately 3.5m

between any mobile home and the boundary and approximately 12m between the mobile homes themselves.

On the basis of the above, there is no conflict with the provisions of LDP Policies DES1, EP1 and EP5.

## **6.7 Highways**

### **6.7.1 Access and Parking**

The site was the subject of an earlier application DM/2016/00297 that was subject to appeal. The Highway Authority in responding to the original application DM/2016/00297 made a number of comments and observations and raised the following concerns:

"The significant increase in vehicle movements of varying numbers and size of vehicles associated with a development of this type is detrimental to highway safety without significant improvements of the existing vehicle access over and above that which has currently been carried out or as detailed on the site plan submitted in support of the application.

Although the impact of the additional vehicles on the local highway network, the B4598, is not considered detrimental, the current access improvements and the proposed amendments to the existing access indicated on the supporting documents, site plan are not acceptable".

The Planning Inspector when considering the issue of highway safety stated:

"48. I thus conclude that adequate visibility can be achieved in accordance with the guidance in MfS (Manual for Streets). Consequently, the development is acceptable in highway safety terms.

49. Although not cited in its reason for refusal, I also note the Council's concern regarding the provision for parking and vehicular movement. Given the size of the site, I am satisfied that this matter could be dealt with by condition in the event of planning permission being granted."

In light of the aforementioned, the Council's Highway Officer has updated their comments and observations regarding the current proposal.

The means of access has now been in use for in excess of 7 years, albeit that the access is currently only providing access to two established plots. Although the access was not constructed in accordance with either the original drawings or the original highway authority recommendations to improve vehicular access and egress and road safety, improvements have now been proposed as detailed on Drawing No.07H - Proposed Site Plan.

The means of access as detailed accords with current design standards and the highway authority offers no objection to the proposal subject to the means of access being improved in accordance with Drawing No.07H. This can be secured via condition should Members be minded to approve the application.

Thus, previous concerns relating to access have been overcome.

### **6.7.2 Sustainable Transport**

In terms of sustainable transport, there is a preference for sites to be sustainably located and accessible to schools, shops and health care, by public transport, on foot or by cycle. Circular 005/2018 advises against over-rigid application of development plan policies that seek a reduction in car borne travel as they could be used to effectively block proposals for Gypsy sites in rural areas outside of recognised settlement boundaries.

The application site is located adjacent to the B4598 approximately 2km to the north of Usk where there are a reasonable range of community, commercial and retail premises available for day-to-day living. School buses are available to transport the children to school. Paragraph 19 of the Circular 005/2018 advises that issues of site sustainability are important for the health and well-

being of Gypsies and Travellers, not only in respect of environmental issues but also for the maintenance and support of family and social networks. Site sustainability should not be considered only in terms of transport mode, pedestrian access, safety and distances from services but the benefits that follow from a settled base including access to health and education facilities for children as well as the maintenance and support of family and social networks. A key factor would be the applicant's children being able to attend local schools.

The site is considered reasonable in sustainability terms having regard to the advice in Circular 005/2018.

## **6.8 Flooding**

6.8.1 The west of the application site is partially situated within a C2 Flood Zone as defined on Flood Maps relating to TAN 15 'Development and Flood Risk'. This risk emanates from an unnamed brook to the north of the application site which has a small ungauged catchment. The four residential pitches would be located to the east of the site outside of the flood zone. The vehicle access and part of the site being retained as open space would be sited within the flood zone.

6.8.2 It is accepted that the planning application proposes development associated with highly vulnerable development within Zone C2 of the Development Advice Map (DAM) contained in Technical Advice Note (TAN) 15: Development and Flood Risk (2004). Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9 January 2014, affirms that highly vulnerable development should not be permitted in Zone C2 (paragraph 6.2 of TAN15). Determining the previous appeal the Inspector expressed concern that this issue had not be properly assessed, including what impact this would have on the existing access arrangements given the lack of a Flood Consequence Assessment (FCA). The Inspector did outline that given that the access forms part of the highly vulnerable development and that TAN15 advises that access routes should be operational under all conditions there was conflict with the tests in TAN15.

6.8.3 Notwithstanding the above, it is for the Local Planning Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15 and make a balanced judgement based on planning merit rather than a less nuanced binary decision. The site characteristics are unique and additional information, evidence and mitigation measures have been submitted in relation to the risk of flooding at the site. The site is located on the periphery of flood zone C2 and all the residential caravans would be sited to the east of the site outside of the flood zone on higher ground than the remaining part of the site. The caravans would therefore be flood free in the event of a flood.

6.8.4 Unlike the previously refused scheme, a FCA has been carried out (by J B Consultants) in support of the current application to assess the impact of potential flooding and what mitigation measures are appropriate based on the location and scale of development proposed. The detailed report is attached as Appendix B. The suggested mitigation includes the provision of a new vehicular access onto the minor road through the existing hedge which would be used should an emergency arise. This would be a gated facility requiring the removal of 4m of existing hedging and the need for this outweighs any potential (and very localised) harm. Replacement planting is proposed to take place elsewhere on the site to compensate for the loss. In addition the applicants have submitted a Flood Emergency Plan.

6.8.5 NRW have reviewed the FCA submitted with the application which demonstrates that the site is located on the periphery of the flood zone, all residential development is outside of the flood zone and there is a flood free emergency access. While the Inspector's views on flooding are appreciated, unlike the application that was subject to appeal, in this case a detailed FCA has been provided (and accepted by NRW) and because of this additional and critical information the flood risk is considered to be acceptable.

6.8.6 Flooding of the main access road in the north-west is predicted up to a maximum depth of 294mm, and this is within the tolerable limits (600mm) suggested within A1.15 of TAN15 for

access routes on residential sites. The proposed emergency access to the eastern boundary of the site is predicted to be flood-free during all events. Access / egress to the site is available from the eastern boundary, in a northerly direction, where flood depths are less than 300mm on the unnamed highway. This is well within the tolerable limits (600mm) suggested within A1.15 of TAN-15 for access routes on residential sites. As such, the Inspector's concerns about flooding are considered to have been overcome.

6.8.7 All the residential caravans are outside of the flood zone, and the applicant has responded to NRW's concerns so that the kennels and stables previously proposed that would have been in the flood plain have been omitted and thus, there is no built development in the flood zone. There is a secondary exit proposed that would remain flood free in the event of a flood. The proposed foul drainage in the form of a PTP and soakaways would also be flood free. Furthermore, the proposal has evidenced that it would not cause flooding to any neighbouring land and result in flooding elsewhere.

6.8.8 It is noted that in their response to the application, NRW recommended that the council consider consulting other professional advisors on matters such as emergency plans, procedures and measures to address structural damage that may result from flooding. As such the Council's Emergency Planning Team have been asked to look at the Flood Evacuation Plan by the applicant with the application. They have advised that the plan appears to be fairly comprehensive. The Flood Risk itself is clearly identified and apparent that for the proposed development itself, this falls within Zone 1 with less than a 0.1% AEP (1 in 1000) chance of fluvial flooding. With the applicant providing this plan, together with the flood risk clearly outlined, it is considered that it is evident that the applicant is aware of the risks and accept these.

6.8.9 The plan outlines alternative egress arrangements should the main site access be compromised and considers alternative arrangements for those that evacuate. It is noted that several considerations are taken into account in the document and that 'shelter' and remaining on-site (and the potential consequences of remaining – such as loss of utilities etc) are equally considered in addition to evacuation.

6.8.10 In conclusion, it is considered that a planning balance judgement needs to be made in relation to flood risk. The application proposes that all of the caravans are outside of the flood zone, evidences that the flooding at the access would be within the tolerable levels (A1.15 of TAN15), would not result in flooding elsewhere and provides mitigation measures in the form of a secondary emergency access and a Flood Evacuation Plan. It is considered that on balance the risks and consequences of flooding can be reasonably managed in accordance with the requirements of TAN15 and Policy SD3 of the LDP.

## **6.9 Drainage**

### **6.9.1 Foul Drainage**

In accordance with Welsh Government Circular 008/2018, it has been demonstrated that there is no connection to mains drainage available. As such, this planning application is supported by a full assessment of the proposed use of a private treatment plant to demonstrate that adverse effects would not arise.

In this case, the site currently drains to an existing septic tank. It is noted that a septic tank which has been installed without any form of assessment, even if properly constructed and maintained fails to provide a thorough examination of the impact of the disposal of the final effluent. Furthermore, the site is within the Phosphorous Sensitive Catchment Area of the River Usk Special Area of Conservation (SAC). Within these areas, all development must also demonstrate phosphate neutrality or betterment.

The information submitted with the application proposes that a new package treatment plant is installed and the existing septic tank decommissioned. The existing site currently accommodates caravans, buildings, hardstanding and grassed areas, some of which have resulted in an increase

in phosphorus discharging into the surrounding water network due to foul water discharge from the properties.

There is an existing foul drainage system with septic tank serving the site and the site has been occupied for 8 years. This discharge is not permitted. This application proposes that the existing septic tank is decommissioned, and the foul water drainage will discharge firstly to a GRAF One2Clean biological Package Treatment Plant (PTP) located a minimum of 7m away from the dwellings. Downstream of the PTP a phosphate (P) filter will be installed which will contain a phosphate removal media to maximise phosphorus removal. This consists of a limestone bed which is proven to have a phosphorus removal rate of 87%.

As the proposed private system has been changed from a surface water connection to drainage to ground, the applicant has submitted a revised Nutrient Neutrality Assessment and Mitigation Strategy (NNA), by Enviren, (12 June 2024). Given the proposal is now for a discharge to ground (not surface water as previously proposed) there is less importance on the applicant to demonstrate the site's phosphorus balance calculation. Nonetheless, NRW have considered the NNA and balance calculations and are satisfied with the conclusions.

An 18 people occupancy and a daily flow of 150 litre equates to an effluent discharge of 2.7m<sup>3</sup> per day. This is in excess of the 2m<sup>3</sup> per day figure referenced in NRW's Interim Planning Advice to screen out a proposal for possible significant effects on the River Usk SAC. In addition, the drainage field is located less than 40m from a watercourse. It is therefore necessary for the Local Planning Authority to undertake a Habitats Regulations Assessment (HRA). This is still to be finalised by the Council's Biodiversity Officer and will need to be reviewed by NRW prior to adoption. However, based on the current information available, the draft HRA concludes that 'the capabilities of the biological PTP and the limestone bed filter mean that Phosphorous levels are such that 373.4mg per day would discharge directly to ground via a drainage field. We conclude that, subject to the imposition and incorporation of the additional mitigation measures detailed, that the project will not adversely affect the integrity of the River Usk SAC

The drainage proposals for the site is a betterment on the existing unauthorised arrangement (septic tank), and it has been evidenced to function within the site in accordance with Building Regulations and Environmental Health requirements. The drainage would outflow to ground and therefore there would be no direct route to a watercourse. The Appropriate Assessment submitted to NRW is likely to evidence that the development would not have a significant impact on the integrity of water quality of the River Usk and the development is therefore acceptable.

### 6.9.2 Surface Water Drainage

Soakaway testing carried out on site demonstrates that infiltration rates are favourable, thus allowing infiltration of surface water to ground. Runoff from roofs would be discharged into soakaways and the hardstanding area will be constructed from permeable paving. Although a part of the site is within the flood zone, the proposed SuDS features are not within that area.

The Council's SAB Team have reviewed the latest surface water drainage information submitted. The calculations show that the blanket infiltration approach should work based on the ground testing they have undertaken so far and a factor of safety of 10 showing the half drain times are still below 24 hours as required. At this stage the Council's SAB Team is therefore satisfied that a fully compliant SuDS System can be achieved on the site with the full details to be agreed through the SAB process.

### **6.10 Contaminated Land**

There is no record of historic contamination of land at the site which has been in residential use. As such, it is considered to be unreasonable to insist upon a Contaminated Land Assessment to support the application. A Method Statement for the safe removal for the existing septic tank has been provided and compliance with this can be conditioned to ensure that there is no pollution as a result that could adversely affect the River Usk Special Area of Conservation, or local amenity. A

condition to cover the treatment of any unknown contamination that might be encountered during the construction period is recommended if consent is granted.

## **6.11 Planning Obligations**

Due to the nature of the accommodation proposed, there are no requirements for the provision of affordable housing or any other planning obligations.

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

Llanarth Community Council and local residents have provided detailed objections to the development which will be addressed in turn. The principle of the development has been assessed in Section 6.1.

### **6.12.1 Flooding**

It is accepted that the planning application proposes highly vulnerable development: a travellers' site within Zone C2 of the Development Advice Map (DAM) contained in Technical Advice Note (TAN) 15: Development and Flood Risk (2004). The Flood Map for Planning (FMfP) identifies the application site to be at risk of flooding and falls into Flood Zones 2 and 3 Rivers. As such reference must be made to Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9 January 2014, which affirms that highly vulnerable development should not be permitted in Zone C2 (paragraph 6.2 of TAN15). The justification tests in paragraph 6.2 of TAN15 do not apply to highly vulnerable development in Zone C2.

Notwithstanding the above, it is for the Local Planning Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15. In this case, NRW have reviewed the FCA submitted with the application which demonstrates that the site is located on the periphery of the flood zone, all residential development is outside of the flood zone and there is a flood free emergency access. While the Inspector's views on flooding are appreciated, unlike the application that was subject to appeal, in this case an FCA has been provided (and accepted by NRW) and because of this additional and critical information the flood risk is considered to be acceptable.

The emergency access to the eastern boundary of the site is predicted to be flood free during all events. Access / egress to the site is available from the eastern boundary, in a northerly direction, where flood depths are less than 300mm on the unnamed highway. TAN15 advises that access routes should be shown to be operational under all conditions and this depth of flooding is within the tolerable limits (600mm) as suggested within A1.15 of TAN15 for access routes on residential sites. Tolerable limits are depths of flooding where the velocity and depth of floodwaters are such that structural damage is not possible or people could be swept away by the flood.

A Flood Response Plan has been provided by the applicant that demonstrates that any occupiers will be aware of the risks of flooding and also have a step-wise plan of action should a flood warning or flood event occur.

Section 6.7 of this report also refers.

### **6.12.2 Foul Drainage**

Detailed proposed means of foul drainage has been provided by the applicant and is deemed acceptable by NRW and the Council's Biodiversity, Environmental Health and Building Control Offices.

Section 6.9.1 of this report also refers.

### **6.12.3 Surface Water Drainage**



Following discussions with the applicant, the Council's SAB Officer has now advised that it has been demonstrated that the proposed infiltration blanket approach should have sufficient capacity to manage all surface water from the site in a 100 year + climate change event. Given that a surface water drainage solution has been demonstrated to be possible, there are no grounds to refuse the planning application on surface water drainage grounds. Further ground investigation will be required across the site to support the SAB application when this is submitted; this will also include an assessment of the drainage of the existing surfaces across the site to ensure that the development does not increase on site or off site flood risk.

Section 6.9.2 of this report also refers.

#### 6.12.4 Landscape Impact

In the previous appeal decision the Inspector concluded the development causes some limited harm to the character and appearance of the countryside. That limited harm must nevertheless be viewed in the context of the implicit acceptance in the Circular that Gypsy and Traveller sites may be located in rural areas. Furthermore, she did not agree with the Council's argument that the site could reasonably be described as 'visually prominent' stating that, 'Whilst it is visible in part, for example the tops of the caravans can be seen at certain points from long range travelling south along the B4598 towards Usk, views of the development are primarily limited to glimpses through the access and gaps in the vegetation when passing along the site frontage.'

*The Inspector went on to say that 'None of the key qualities of the Upper Usk Valley landscape character area are seriously affected by the development; it does not affect the river, harm views to higher ground or enclose the open, flat riparian landscape which is of high scenic quality. Consequently, I do not find that the location of the site is inherently unacceptable and I consider that the limited scale of the development together with the position of the caravans and associated parking does not seriously harm the character and appearance of the rural landscape. Neither do I consider that the additional development proposed would have a significantly greater visual impact.'*

Furthermore, additional landscaping along the field boundary and site frontage can be controlled by condition should Members be minded to approve the application which would provide a betterment for the site.

Section 6.3 of this report also refers.

#### 6.12.5 Impact on Heritage Assets

The Community Council have noted the following assets within the vicinity of the site:

- Upper Llancayo Farm- Early C17 gentry house, now farm house.
- Llancayo House - Early C19 country house - marked on 1842 Tithe Map.
- Railings and gates to the south of Llancayo House-earlier C19 screen of low railings dividing front lawn of Llancayo House from field beyond, built before 1818 or part of a remodelling 1830.
- Lower Llancayo Farm and attached outbuilding
- Mill building at Lower Llancayo Farm- early C19 granary and mill Barn @ Lower Llancayo
- Farm- very large earlier C19 barn built for the Llancayo House Estate- marked on 1842 Tithe Map.
- Outbuildings to the east of Lower Llancayo Farm- Former stable range, earlier C19 built for Llancayo House Estate- marked on 1842 Tithe Map.
- Windmill Tower to the West of Llancayo House; also listed in Windmills in Wales as Llancayo Windmill.

The site is largely screened by the existing vegetation along the site frontage and the hedgerow separating it from the fields beyond. In visual impact terms therefore, it is the access itself which is most visible, which is not dissimilar to others along this stretch of the highway. Only glimpses of the caravans through the existing and proposed vegetation will be possible and therefore it would

be unreasonable to conclude that the site will have any significant impact on the setting of any Grade II Listed structures. It is also worth noting that the Inspector did not consider this an issue in her previous decision. The Council's Heritage Officer has also assessed the current application and has raised no objections.

#### 6.12.6 Highway Safety

The suitability of access in regard to highway safety has been addressed in Section 6.6 above. The Highway Authority have also confirmed that there are no grounds to refuse the application on highway safety grounds.

Section 6.7.1 of this report also refers.

#### 6.12.7 Other Matters

There has been a query raised regarding the correct site area as it has seemingly increased from 0.44ha at the time of the 2016 planning application, to 0.52ha in the current application. The site on the current application has been calculated by CAD from the current O/S map. As such that measurement is considered to be the correct site area.

In terms of the ownership of the hedges, it is understood that these are divided down the middle with the inside being controlled by the applicant and the outside by Highway Authority. As such, ongoing management of the hedges to maintain intervisibility, and the enhancements proposed to reinforce boundary integrity are within the applicant's control.

It is noted that the existing kennels and stables are to be removed as part of the current planning application. At this time the need for the homes is the priority for the applicant and they have agreed to a condition requiring their removal.

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

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

### **6.14 Conclusion**

6.14.1 The applicant's lifestyle and family traditions fall within the statutory definition of Gypsies and Travellers as defined in Welsh Assembly Government Circular 005/2018 "Planning for Gypsy, Traveller and Show People sites" and Section 108 of the Wales Housing Act. They have a strong family history and connections within the South Wales area, including Usk. The site was purchased to enable them to continue their Gypsy lifestyle, to remain on a safe and secure site to enable the children and adults to continue receiving welfare, education and medical attention and some occupiers to continue to receive care from relatives on site.

6.14.2 The Gypsy and Traveller Accommodation Assessment (GTANA), approved by WG in June 2024, identified the need for 13 additional pitches over the plan period to 2025. This need is currently unmet and it has been demonstrated that any unmet need for additional pitches will, over the next few years, only be satisfied by the provision of private sites brought forward by the Gypsy and Traveller community. Without this site, the applicants would effectively be homeless. The current proposal is for the applicants to establish the site as their home as they cannot be accommodated on any other private authorised site within the County.

6.14.3 The current policy is insufficiently flexible to cater for any unexpected demand for new pitches arising from the indigenous Gypsy community.

6.14.4 Significant weight should be given to the lack of alternative sites within the County. To address the unmet need the Council states that applications for Gypsy and Traveller sites will be considered having regard to the outstanding need in accordance with the most recent government guidance. Policy H8 is a criteria-based policy against which such applications will be assessed through the development management process. There will be a preference for accommodation needs to be met on allocated site (of which there are none), existing Gypsy and Traveller sites or on appropriate extensions to those sites or sites within existing settlements. However, Circular 005/2018 advises that sites in the countryside can be treated as exception sites subject to satisfying the criteria in Policy H8 and identifying a need that cannot be met elsewhere.

6.14.5 The criteria in Policy H8 are considered to have been met in that the site is well screened by natural vegetation without causing harm to the surrounding landscape or any nearby properties, has a safe means of access with on-site parking and turning facilities. The site can unobtrusively accommodate the development providing a spacious and safe layout for the pitch and services are available.

6.14.6 The Planning Inspector's two key concerns set out in the appeal decision from 2017 have now been addressed by the applicant via a detailed flood assessment with the area proposed for the living accommodation demonstrated as flood free (as would the emergency access be), and with a main access that floods within tolerable limits, allowed for in TAN15. The drainage concerns are being addressed by the removal of the existing septic tank and its replacement with a private treatment plant that will operate to good environmental standards. Other concerns offered by the Council at the time, including access, parking and visual impact were not supported by the Inspector.

6.14.7 Article 8 of the European Convention on Human Rights as enshrined in the Human Rights Act 1998 gives paramount respect and importance to protect private and family life, as well as the public sector duties under the Equality Act 2010. Article 3 (1) of the United Nations Convention on the Rights of the child provides that the best interests of the children shall be a primary consideration in all actions by public authorities concerning children, meaning no other consideration can be inherently more important than the best interests of the child. The lack of alternative sites within the current plan period, the personal circumstances of each family, contained in Appendix A, and the rights of children and vulnerable people have significant weight to overcome the perceived harm the development would have on this well-screened rural site. They must be afforded an importance or weight as great as any other material consideration prior to examination of the circumstances of the case.

6.14.8 The above demonstrates that very special circumstances exist that outweigh any perceived harm of new residential development in the open countryside.

## **7.0 RECOMMENDATION: APPROVE (Subject to Appropriate Assessment under the Habitats Regulations being agreed with NRW)**

### **Conditions:**

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

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

2 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.

3 The existing access shall be improved in accordance with Drawing No.07H Proposed Site Plan within six months of the date of this permission. Thereafter it shall be retained, unobstructed, in this form in perpetuity.

REASON: In the interests of highway safety in accordance with LDP Policy MV1.

4 All measures to provide net benefit for biodiversity as shown on approved plan 07H including hard and soft landscape works, shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised Codes of Good Practice. Planting of Trees shall be in accordance with BS8545:2014 Trees: from nursery to independence in the landscape. The works shall be carried out within the first planting season following the date of this permission. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

5 Any unforeseen contamination encountered during development shall be notified to the Local Planning Authority as soon as is practicable. Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, an appropriate ground investigation and/or remediation strategy shall be submitted to and approved in writing by the Local Planning Authority, and the approved strategy shall be implemented in full prior to further works on site. Following remediation and prior to the occupation of any building, a Completion/Validation Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed.

6 The existing stables and kennels shown on site plan 02B shall be removed from the site within six months of the date of this permission.

REASON: the buildings would prevent the site being developed as approved and are in the flood plain and thus would be vulnerable to flooding, contrary to advice set out in TAN15.

7 The new Private Treatment Plant shall be installed within 12 months of date of this permission, in accordance with approved drawing 07H.

REASON: To ensure the integrity of the River Usk Special Area of Conservation.

8 Within three months of the first beneficial use of the new Package Treatment Plant, the existing septic tank shall be decommissioned in accordance with the 'Method Statement for Decommissioning of Septic Tank Llancayo Traveller' Site dated 14/5/24.

REASON: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed.

9 No new development or vegetation clearance shall take place or material or machinery brought onto the site until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include details of measures to protect: 1. Nesting Birds 2. Hazel Dormice 3. Hedgehogs. The Construction Method Statement as approved shall thereafter be implemented in full.

REASON: Safeguarding of protected and priority species during construction works LDP policy NE1 and the Section 7 of the Environment Act (Wales) 2016.

10 The approved 'Proposed Site Plan' drawing by Elliot Haystons Development and Planning Ltd, which illustrates the extent of hedgerow mitigation, shall be implemented in full and shall be retained as such in perpetuity. Evidence of compliance with the plan in the form of georeferenced photographs must be provided to the Local Planning Authority no more than three months later than the period by which the landscaping shall be carried out as identified by condition 4 above.

REASON: To provide biodiversity net benefit and ensure compliance with PPW 12, the Environment (Wales) Act 2016 and LDP policy NE1.

11 The emergency access shown on site plan 07H shall be implemented and available for use within twelve months of the date of this permission.

REASON: to ensure a safe and convenient access to the site can be provided, in accordance with Policy MV1 of the LDP.

12 No residential caravans or any associated living accommodation shall be positioned other than as is shown on the approved site plan 07H.

REASON: part of the larger site is within Flood Zone C2 and it would not be acceptable to locate living accommodation on the part of the site that floods having regard to advice in TAN15.

13 The occupation of the site shall only be by Gypsies and Travellers as defined in Circular 005/2018 published in June 2018 where Paragraph 2 refers to Section 108 of the Housing (Wales) Act 2014 where Gypsies and Travellers are defined as:

- a) Persons of a nomadic habit of life, whatever their race or origin, including
  - (i) "Persons who, on grounds only of their own or families or dependent's educational or health needs or old age, have ceased to travel temporarily or permanently, and
  - (ii) Members of an organised group of travelling show people or circus people (whether or not travelling together as such); and
- b) All other persons with a cultural tradition of nomadism or of living in a mobile home.

REASON: To ensure the site is only occupied by qualifying gypsies or travellers in accordance with Welsh Government Circular 005/2018.

## **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 As of 7th January 2019, all construction work in Wales with drainage implications, of 100m<sup>2</sup> or more, is now required to have Sustainable Drainage Systems (SuDS) to manage on-site surface water (whether they require planning permission or not). These SuDS must be designed and constructed in accordance with the Welsh Government Standards for Sustainable Drainage.

The SuDS Approving Body (SAB) is a service delivered by the Local Authority to ensure that drainage proposals for all new developments of at least 2 properties OR over 100m<sup>2</sup> of construction area are fit for purpose, designed and built in accordance with the National Standards for Sustainable Drainage published by Welsh Ministers.

If you are in any doubt as to whether you require SAB approval, please contact:

SAB@monmouthshire.gov.uk

For advice regarding the application process and general enquiries - 01495 768306

For technical advice regarding your SuDS design and meeting the National Standards - 01633 644730

3 Please note that all birds are protected by the Wildlife and Countryside Act 1981 (as amended). The protection also covers their nests and eggs. To avoid breaking the law, do not carry out work on trees, hedgerows or buildings where birds are nesting. The nesting season for most bird species is between March and September.

4 The applicant's attention is brought to Public Footpath 64 in the community of Gwehelog Fawr which runs within the site of the proposed development. Public Path no. 360/64 must be kept open and free for use by the public at all times. No barriers, structures or any other obstructions should be placed across the legal alignment of the path, and any damage to its surface as a result of works or private vehicular use must be made good. If the path needs to be temporarily closed to allow works, the applicant should apply for a temporary traffic prohibition order.

5. The applicant's attention is drawn to the Flood Emergency Plan Guidance Llancayo Traveller Site Version 1 (June 2024). This Plan is owned, maintained, and updated by Sharmane Jones & Mike Purcell. All residents are asked to advise Sharmane Jones & Mike Purcell of any changes in circumstances that may materially affect the plan in any way, such as a change of contact number and/or email address, The plan should be reviewed at least every three years, as a result of lessons identified after an activation event or exercise, following major changes of personnel or following any change to the flood risk or warning process.