



Campaign for the Protection of Rural Wales
Brecon and Radnor Branch
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Luke Jones
Planning Department Powys County Council,
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30/7/21

Dear Luke Jones

**21/0263/FUL: Erection of a free-range broiler chicken unit, associated feed bins and all associated works
Llwyncutta Farm, Rhayader**

Brecon & Radnor branch of CPRW wishes to object to this application. We reserve the right to submit a further objection when more information becomes available.

History of poultry units on the farm

P/2009/0367 Erection of a free-range table poultry house (12,500 birds) together with feed silos and ancillary works and creation of new access (Powys Planning Portal)

P/2015/1207 Erection of a free-range poultry building with associated bins and hardstanding Llwyncwtta Farm. Documents confirm the application to relate to an extension for 12,000 broiler chickens. However, Condition 9 of Decision Notice states: 'The egg production unit [our emphasis] hereby approved shall be limited to occupation by 16,000 hens.' The decision notice does not give permission for a second broiler shed.

21/0263/FUL Erection of a free-range broiler chicken unit, associated feed bins and all associated works. DAS states the number of poultry to be installed in the new shed to be 10,000.

OUTSTANDING INFORMATION REQUIRED

21/0263/FUL

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| 1 | Clarification of bird numbers on the farm. | See 1 below. |
| 2 | Air emissions - (i) ammonia assessment for Black Brook pastures SSSI (ii) detailed in combination ammonia assessment to establish any impact on River Wye and Elan Valley Woodlands SACs | NRW letter 8/4/21 |
| 3 | Air emissions - Detailed in-combination assessment considering all ammonia sources | NRW letter 8/4/21 |
| 4 | Air emissions - Details of calculations and derivations as used in the Ammonia Report | NRW letter 8/4/21 |

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| 5 | Submission of a revised range plan <u>in line with GN021'</u> [our emphasis]. Revised range plan does not indicate the extent of the flood zone. | NRW letter 8/4/21 & 11/5/21 - specific requirements are listed |
| 6 | Manure Contingency Plan - which needs to include a Manure Management Plan satisfying the requirements of GN021 and evidencing the availability of sufficient suitable land for the spreading of all manures and waste water produced by all 3 poultry units. | NRW letter 8/4/21 & see 4 & 5 below. |
| 7 | Habitat Regulations Assessment to be prepared by LPA | NRW letter 8/4/21, 11/5/21 and 4/6/21 |
| 8 | Clarification of treatment of dirty water | See 4 below. |
| 9 | Flood Consequences Assessment | NRW Guidance GN021 (see 3 below) |

P/2015/1207

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| 10 | Detailed landscaping scheme | Conditions 3 & 4 to P/2015/1207 Decision |
| 11 | Pollution management and mitigation strategy | Condition 12 to P/2015/1207 Decision |
| 12 | Details of dirty water spreading | Condition 11 to P/2015/1207 Decision |
| 13 | Further information requested by County Ecologist, including (i) further ammonia modelling to ensure protection of Ancient Semi-Natural Woodland (ii) Manure Management Plan indicating watercourses and suitable buffering (iii) assessment of cumulative impacts on the River Wye SAC (iii) implementation of 200m buffer around ponds/watercourses | See Officer's Report for P/2015/1207 |

1. Numbers of poultry in existing poultry houses on the farm

The application site is located within a 4.5ha parcel of land, with 2 No. free range broiler units in situ. The applicants are proposing to expand their existing poultry enterprise through the erection of a second free range broiler rearing unit. The proposed unit will house 10,000 birds, taking the overall total on site to 30,000 birds. The proposed unit will enable the business to become more economically viable and help to meet the increasing demand for free range chickens.

The DAS (see extract left) states that the applicant wishes to expand the flock to a total of 30,000 from an existing 20,000. However, it appears that permission was given for 12,500 birds in 2009 (P/2009/0367) and for a further 16,000 egg-laying birds in

2016 (P/2015/1207) giving a total of 28,500 birds consented on the farm in existing buildings. Minimally, the number of birds already on the farm should be treated as the **24,500 applied for**, though there is an argument that the planning officer should proceed on the basis that the applicant has installed, or could at any time install, the maximum number of birds (egg-laying and broiler), i.e., **28,500 permitted** in the existing sheds. The council's error in the P/2015/1207 Decision Notice has created a complicated legal situation and confusion as to the actual number of birds on the farm, both of which require resolution.

No dimensions are available for the 2009 development. 2015 building (for 12,000 broilers) is 79248cm x 12192 cm, i.e., the same size as the proposed 2021 building at 80m x 12m (for 10,000 broilers). It's unclear why the applicant is proposing to construct a building which is larger than required for the number of birds stated in the application.

2. Range area

The extent of the range area required by law is determined by the number of birds at 1m² per bird, and range area is considered an integral part of an IPU application. The total required range area for the two existing sheds and the proposed shed will be a minimum of 34,500 m² or 3.45Ha, or perhaps as much as 38,500m² or 3.85Ha.

The ranging area is insufficient. The range plan (AMENDED_RANGE_PLAN-387164 May 21) gives the area of each of the ranges attached to the two existing sheds and the proposed new shed as exactly 1Ha, so arriving at a total 3Ha of available range on the existing plot. Using Google maps area measurement tool, the total area of the **entire plot**, including hard standing and buildings and allowing for a 10m buffer between ranges and the Rhyd Hir Brook, appears to be around or slightly less than 3Ha. The total available range area, once areas of hard standing and the footprints of the buildings are adjusted for, is therefore significantly less than both the claimed 3Ha and the required 3.45/3.85Ha.

NRW's guidance note GN021 requires a range plan to show the following information, and this is set out in NRW letter of 8/4/21. The site is particularly vulnerable – see 3. below – but the amended range plan still falls short of requirements. The extent of the C2 flood zone (see 3. below) should be mapped onto the range plan.

5	Range area plan (for free range units)	<p>Applications need to include details of the livestock range area in order to assess the risk of runoff polluting nearby watercourses.</p> <p>Maps showing the range area should indicate:</p> <ul style="list-style-type: none">• Boundaries of the ranging area (including total area in hectares);• Direction of slope;• Soil types (for example heavy clay);• All sensitive receptors (wells, springs, boreholes -within 50m of the site boundary, watercourses, hedgerows and any known protected sites or species) - within 50 meters of the boundary;• Location of existing or proposed mitigation measures to control run off;• Proposed management of soil and crop cover to prevent waterlogging and run off. With particular reference to areas around livestock access points - pop holes or verandas.
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Conditions 3 and 4 set out in the Decision Notice for P/2015/1207 require submission and implementation of a detailed landscaping scheme. There is no trace of this in the documents uploaded to the Planning Portal, and aerial views of the farm available online would not suggest any planting has taken place. Is this just another worrying instance of careless cut and paste in the P/2015/1207 Officer's Report and Decision Notice?

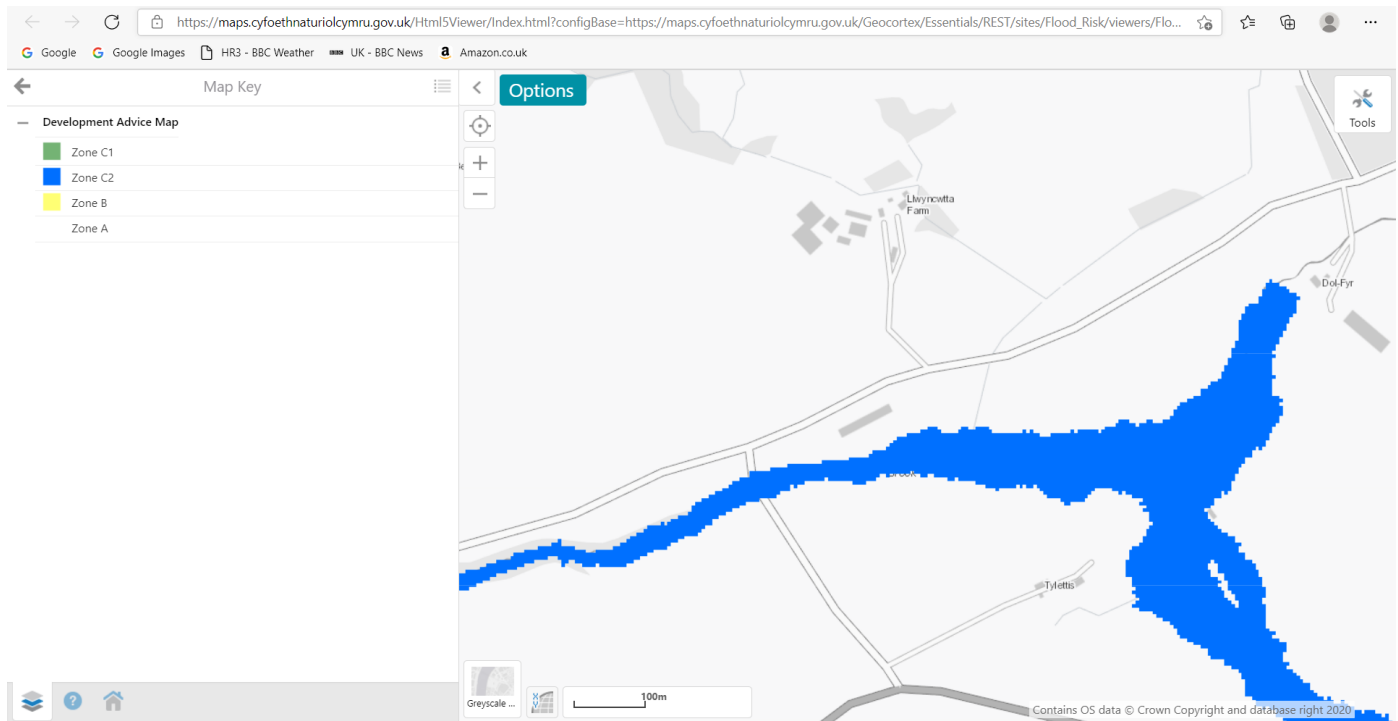
Condition 8 to P/2015/1207 reads: **'8. Poultry manure shall not be applied to ground that is waterlogged, flooded, frozen hard or snow covered. No poultry manure or foul water from the poultry unit shall be applied within 200 metres of ponds or watercourses within the manure spreading area or within 50 metres of wells or boreholes.'** [our emphasis]

Logically it follows that the ranges should also observe a 200m buffer from watercourses as free ranging birds will deposit manure on the range. This is not addressed in the determination of the 2015 application; both existing

sheds are between 40-50m from the brook and the entirety of existing ranges is within 200m. The new shed and range is intended to occupy part of the existing range between existing sheds and the brook.

3. Flood risk

The site chosen for the two existing sheds and the new proposed shed and range area is severely compromised by its partial inclusion within the Zone C2 Flood Zone. See extract from NRW's Development Advice Map (11/7/21) below.



No application documents are available for the 2009 application. Not all documents uploaded to the planning portal for the 2015 can be opened and viewed by portal users. However, from those documents available to view, including NRW response dated 27/1/2016 and the Officer's Report, there is no indication that consideration was given at the time to the potential flood and pollution risk, even though the range and possibly parts of the building too are within the flood zone. The existing development may already require mitigation to protect the River Wye SAC from pollution risk. Condition 12 to P/2015/1207 required the submission, and approval by the authority, of a 'pollution management and mitigation strategy' for the second shed. Was this obtained? No such document is available to view on the planning portal.

For this further proposed development parts of the range are certainly within the flood zone, part of the building may also be within the flood zone, along with the soakaway, rainwater harvesting tank and 20,000 litre dirty water tank. But application documents are entirely silent on flood risk.

Tan 15 states that development within a Zone C flood zone should pass the '*justification*' test set out in Section 6 of the TAN. This test contains the stipulation that it must be possible to demonstrate that: 'The potential

consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable'. In the light of the failing state of Welsh rivers and the need for the development to demonstrate phosphate neutrality, we cannot see any way that the potential consequences of a flood extending onto the ranging area could be acceptable. At the same time, restricting the ranging to exclude the flood zone, will further reduce its already inadequate area.

NRW Guidance GN021 requires submission of a Flood Consequences Assessment, and sets out that '*a proposal affected by flood risk may find it difficult to meet the pollution prevention requirements, especially if manure is carried off ranging areas by flood water*'.

Mitigation of risk of run off into the brook has been proposed in the form of a soil bund adjacent to a 10m buffer strip. The Ecologist's report contains the following photo of the land adjacent to the stream.



Plate 5: a view of the margin of marshy grassland alongside the brook. Much of this habitat will remain undamaged and *in situ* within the 10m wide fenced buffer zone along the brook.

The marshy grassland would seem then to reach further than 10m into the field from the brook. Is the intention to build a soil bund onto marshy land, at least in part within a flood zone? How can this be effective when water can presumably pass beneath it even when not flooded? Can marshy land, given its hydrological connection with the brook, ever act as an effective buffering strip? Can marshy land ever be included within a range without risk to the river? On the face of it, this doesn't look like a solution which will deliver adequate protection for the brook and the Wye SAC.

4. Manure contingency plan and manure management plan

We have not seen the Manure Contingency Plan, required by NRW (letter dated 8/4/21), which is to: '*demonstrate that the proposal will not cause ground and surface water pollution and an increase in phosphate levels within the River Wye SAC*'. This should allow for the possibility that at some time over the lifetime of the poultry building there will be periods when export of manure off the farm is not possible – this was an explicit requirement for application 20/1292/FUL Drewern, Hundred House. It follows the plan will need to evidence not only that there is sufficient suitable land on the farm for spreading of the entire manure and dirty water output of the expanded operation, in the form of an updated Manure Management Plan, but also that there is adequate safe storage for

manure and dirty water. NRW have confirmed that open field heaps are themselves a pollution risk.

Condition 11 to P/2015/1207 states *'The spreading of foul water shall be carried out in accordance with the submitted manure management plan'*. The 2015 MMP contains no reference to dirty water.

The Manure Management Plan should also allow for the reduced spreading limits in the Welsh Government's Water Resources (Control of Agricultural Pollution (Wales) Regulations 2021. Under these Regulations the maximum nitrogen spreading rate for organic manure across the land-holding will lower from 250kg/Ha/year to 170kg/Ha/year. The 2015 Manure Management Plan states that there is 174 Ha of land available for spreading, though the evidence for this claim is missing, and this appears in conflict with the statement in the DAS (document 357682) that the total area of land owned is 400 acres i.e. 161 Ha. The County Ecologist noted, in relation to the 2015 application, that the spreading area was crossed by several watercourses. She requested that the planning officers obtain a revised Manure Management Plan showing how the watercourses could be protected from potential run off, and recommended a condition ensuring no spreading within 200m of watercourses and protected sites. There is no such Manure Management Plan available to view on the portal.

NRW Guidance GN021 requires an MMP to address the following:

- *Calculation of nutrient loading (Nitrogen and Phosphate) per hectare of land available for spreading.*
- *Show how nutrients will be used by the holding for agricultural benefit.'*

and sets out the features which need to be shown on the MMP. An adequate MMP is an essential piece of evidence to demonstrate that this new development on the farm is capable of using all animal manures, from poultry and other livestock, and dirty water produced on the farm in such a way as to deliver agricultural benefit.

The MMP will need to comply with Condition 8 to P/2015/1207 which reads: **'8. Poultry manure shall not be applied to ground that is waterlogged, flooded, frozen hard or snow covered. No poultry manure or foul water from the poultry unit shall be applied within 200 metres of ponds or watercourses within the manure spreading area or within 50 metres of wells or boreholes.'**

5. Manure Management – Export of litter to Gamber Logistics

The applicant is assuming that over the entire lifetime of the poultry building it will be possible to export all manure from the new building off site, and Gamber Logistics have provided a letter expressing willingness to purchase the manure. While it's stated that dirty water will also be taken off site this can't be assumed while no destination is identified, so it's reasonable to assume that there will, minimally, be phosphate impacts from this new development associated both with deposit of manure on the range and the spreading of dirty waters somewhere on the farm.

The development is required to achieve phosphate neutrality or betterment to protect water quality within the

Welsh Wye Catchment and comply with NRW's Planning Position Statement and Interim Planning Guidance. This guidance states:

In relation to developments to which this document applies, we would expect that any measures relied upon to avoid or mitigate potential impacts on a SAC due to increased amounts or concentration of phosphates, are supported by evidence from the developer which demonstrates that those measures are guaranteed and maintained for the lifetime of the development, and are effective, reliable, and timely. We would also seek confirmation by the local planning authority that the measures can be legally enforced to ensure they will be implemented as proposed.

Gamber has very recently provided a similar undertaking to at least 6 Powys poultry applications, 5 of them among the 18 live applications in the county. Clearly Powys County Council and NRW should be considering the in-combination impacts of this arrangement with respect to traffic and the receiving environment over the border.

The Gamber undertaking does not specify where the litter will go. Gamber is based in Herefordshire, in the Wye catchment, and so there is a high risk that Gamber will export excess phosphates from one part of the catchment to another. In as much as the litter supplies ADs, it adds to the problem. Phosphates are retained in digestate which is usually spread on neighbouring land. In addition, digestion of poultry litter requires combination with plant crops, principally maize. Maize requires high levels of nutrients (RB 209) and carries a high risk of soil-erosion and build-up of soil phosphate stores, both of which are recognised to pollute local watercourses.

According to the NRW Interim Planning Guidance for SACs quoted above, NRW expects evidence that the measures are guaranteed and maintained for the lifetime of the development. The Gamber letter reproduced in place of a Manure Management Plan does not supply this evidence. NRW also expects the LPA to confirm that they can legally enforce these measures. Unless the LPA are in a position to closely monitor quantities and destinations of litter export and enforce against any breach of condition, and at the same time monitor the different destinations of poultry litter from different units on the same farm, clearly an impossibility, they cannot possibly confirm this. An intensive poultry unit may have a lifespan of decades length and a company such as Gamber may be subject to takeover, merger, bankruptcy etc. as with any other company. The Gamber letter is not a legal undertaking and so Powys cannot guarantee the export arrangement. The LPA cannot claim that the SAC is safeguarded beyond reasonable scientific doubt.

This arrangement provides no certainty about the protection of the Wye SAC in Wales or in England.

The environmental risks cannot be satisfactorily addressed without a credible means of regulatory control over the proposed manure export arrangement.

This requires a radical change in the current procedure whereby NRW avoids responsibility for potential environmental damage by 'advising' that the LPA must impose planning conditions, knowing these are neither monitored or enforced. The LPA, in turn, defends planning decisions on the grounds that NRW advice has been followed.

6. Ecology

Further information was requested by the County Ecologist in relation to the 2015 application (see 2015 Officer's Report), including further ammonia modelling to ensure the protection of Ancient Semi-Natural Woodland, but appears never to have been obtained.

More information is required for the current application: the Habitats Regulations Assessment required by NRW (letter 11/5/21) is not on the portal, and a Manure Management Plan is essential in the consideration of ecological and environmental impacts and ammonia emissions from spreading.

An ecologist's report has been provided though it contains the following caveat:

'LIMITATIONS It should be noted that a single visit to a site will inevitably miss species not visible on the date of survey by reason of seasonality, mobility, habits or chance. The month of February is a sub-optimal survey period for many taxa of nature conservation interest in this part of the United Kingdom. This ecological survey may not be sufficient on its own for planning application purposes where notable habitats/species are present or potentially present, especially regarding European Protected Species.'

And arrives at the conclusion:

'Once applied and carried out, the recommended ecological protection and enhancements will provide assurance that there is no net loss to biodiversity [our emphasis] and no unacceptable adverse impact on ecosystem services.'

The conclusion is undermined by the preceding caveat.

CPO letter 23/10/19: "...development should not cause any significant loss of habitats or populations of species, **locally or nationally and must provide a net benefit for biodiversity** [our emphasis]."

As yet, no response from the County Ecologist is available online.

Evidence of required biodiversity net benefit, if that is even achievable, has not been supplied.

7. Ammonia

The required detailed in-combination assessment in relation to the River Wye and Elan valley Woodlands SACs is not on the portal. Elan Valley Woods SAC is designated for epiphytic lichens and was already reported as having ammonia levels in excess of the critical level in 2016. Meanwhile the recent report by the Woodland Trust 'Wood Wise' suggests that ammonia emissions thresholds currently applied are in fact too high to protect trees and woodlands and their associated species.

NRW have also asked for details of calculations and derivations as used in the Ammonia Report and for an

assessment of ammonia impacts on Black Brook Pastures SSSI.

Given that NRW has already requested clarifications we would only add the following: From 3.2 of the Ammonia Report: *'The background ammonia concentration (annual mean) in the area around Llwynchwta and the wildlife sites is 0.93 µg-NH₃/m³ ... The source of these background figures is the Air Pollution Information System (APIS, February 2021).'* However, at July 2021, the APIS website is showing a background level of ammonia of 1.19 µg-NH₃/m³, and the Jan 2016 NRW response to the 2015 application shows local wildlife sites exceeding their critical levels of 1 µg-NH₃/m³, with the exception of Marcheini uplands for which a background level – in 2016 – is given as 0.96 µg-NH₃/m³. Paragraph 3.2 requires explanation as on the face of it this given background level appears incorrect.

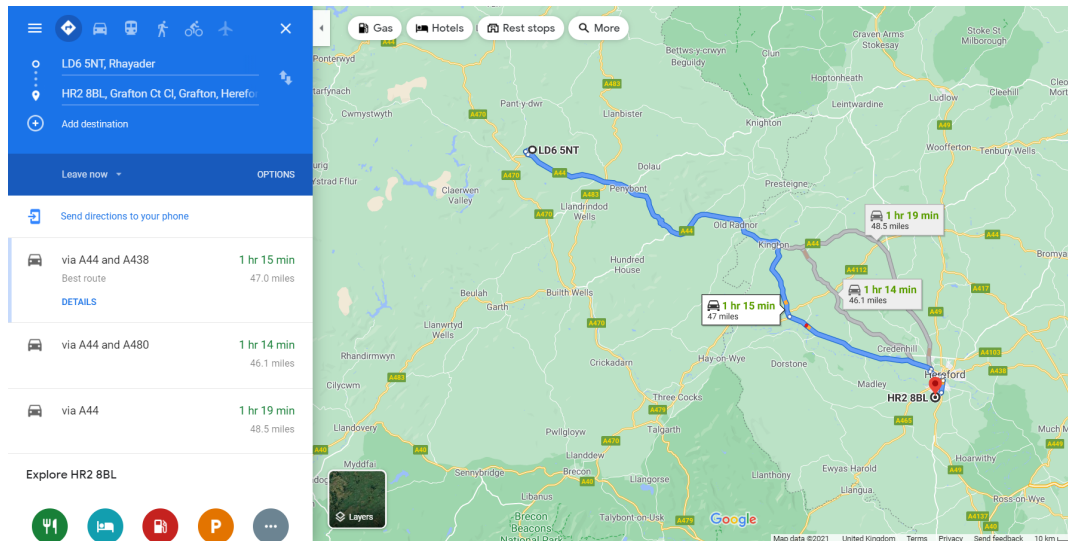
Planners are supposed to have regard to NRW's Area Statements: *'Area Statements provide a starting point for planners to understand environmental issues, priorities and opportunities in their particular area'*. From the 'Sustainable land, air and water' theme of the Mid Wales Area Statement: *'Ammonia is toxic to native plants and habitats, and its accumulation and spread in the natural environment can lead to significant damage to habitats and species loss. **Ammonia pollution from the increasing number of intensive agricultural units is now a very significant threat to the survival of the rich variety of rare pollution-sensitive lichens scattered throughout Mid Wales. Urgent measures are required to address this ongoing threat to our natural environment.***' [our emphasis]

Wales is one of the most nature depleted countries in Europe, and Welsh Government has now approved a motion acknowledging the biodiversity crisis in the country and committing to an intention to turn this deteriorating situation around. Impacts of ammonia deposition are well known to have long term harms cascading through ecosystems. NRW's statutory purpose has been defined as the pursuit of *'sustainable management of natural resources in relation to Wales'* and the local authority has a legal duty to *'maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems'*.

NRW (8/4/21) state that protected sites in the vicinity of this development, several being designated for nutrient sensitive habitats or species, are already exceeding ammonia critical levels. Clearly ammonia emissions from this development, while not necessarily exceeding NRW's thresholds, will exacerbate the existing damage to the ecology of these sites and of the surrounding countryside. We cannot understand how approval of another ammonia emitting development in the context of existing exceedances can possibly be compatible with the legal duties imposed by the Environment Act (Wales) 2016 on both NRW and the LPA, or contribute to addressing the biodiversity crisis.

8. Traffic

We would question the sustainability of the proposal to transport all manure from the proposed shed 47 miles (one way) to Gamber Logistics, Hereford.



Vehicle movements have been estimated on the basis that flocks in the three sheds are always synchronized. No vehicle movements are included for daily staff visits, cleaner and catcher teams, engineer/maintenance visits, thinning of birds, delivery of fuels, bedding delivery, removal of waste cleaning water... In other words, the picture presented is unrealistic and does not give a true picture of likely vehicle journeys generated by the development.

No assessment of impacts on Rhayader, through which all vehicles will have to pass, is provided.

7. Disease risk

We briefly outlined risks associated with intensive poultry in our objection to 21/0059/FUL. We will only repeat here that an LPA which receives and approves such a high volume of intensive livestock applications has a duty to the public to urgently request advice on the possible human health impacts.

8. Water Consumption/potential contamination

In the same way, an LPA which receives and approves such a high volume of intensive livestock applications has an obligation to consider impacts from water abstraction and potential contamination of ground waters. Dwr Cymru has advised that the proposed development falls within a Dwr Cymru Welsh Water (DCWW) drinking water catchment 'Wye at Builth' which is designated as a Drinking Water Protected Area under Article 7 of the Water

Framework Directive, which requires avoidance of deterioration which might lead to additional purification treatment being required. Dwr Cymru has requested further information which is not yet available on the portal.

The UN's recent GAR Special Report on Drought 2021 (June 2021) highlights the likelihood that most parts of the world are likely to experience water stress in the next few years. The LPA should urgently consider the cumulative demands of the existing poultry industry on existing available water resources and potential future risks to other water users, before any further intensive livestock units are given permission.

9. Amenity

No information has been supplied with regard to odour, dust or noise.

10. Climate change

Powys declared a Climate Change Emergency in September 2020.

PPW 11 refers to climate change throughout and asks, 2.28

- will the causes and impacts of climate change be fully taken into account through location, design, build, operation decommissioning and restoration and
- does it support decarbonisation and the transition to a low carbon economy?

4.1.4. says 'land use and transport must be integrated. The planning system must ensure it enables integration:

- between transport measures and land use planning'

CPRW considers that the council must take climate change into account in determining this application.

11. Cumulative impacts and existing environmental problems

In addition to cumulative assessment requested by NRW (above) the LPA must consider all cumulative impacts, including ecological, traffic, water and amenity impacts, of this development together with other ILUs in the local and wider areas. The map in Appendix 1 below indicates the density of intensive poultry developments approved and in planning within 2km, 5km and 10km of the application.

Chief Planning Officers have been reminded of this duty in the CPO letter of 12/6/18

CPRW Brecon & Radnor Branch are very concerned that the Planning function of Powys Council has failed to direct intensive livestock development away from the most vulnerable and damaging sites, of which this is one, and so failed in its statutory biodiversity duties.

