

Pwyllgor Cynllunio, Trwyddedu Tacsis a Hawliau Tramwy

Man Cyfarfod
**Siambr y Cyngor - Neuadd y Sir,
Llandrindod, Powys**

Dyddiad y Cyfarfod
Dydd Iau, 3 Awst 2017

Amser y Cyfarfod
10.00 am



Neuadd Y Sir
Llandrindod
Powys
LD1 5LG

I gael rhagor o wybodaeth cysylltwch â
Carol Johnson
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28/07/2017

AGENDA

1.	YMDDIHEURIADAU
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Derbyn ymddiheuriadau am absenoldeb.

2.	COFNODION Y CYFARFOD BLAEOROL
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Awdurdodi'r Cadeirydd i lofnodi cofnodion cyfarfodydd blaenorol y Pwyllgor a gynhaliwyd ar 12 a 20 Gorffennaf fel cofnodion cywir.

(To Follow)

Tacsis a thrwyddedau eraill

3.	DATGANIADAU O DDIDDORDEB
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Derbyn datganiadau o ddiddordeb yn gysylltiedig a'r eitem nesaf ar yr Agenda.

4.	AMODAU TRWYDDED CERBYDAU
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Ystyried yr adroddiad ynglyn ag amodau trwydded cerbydau

(Tudalennau 1 - 16)

Cynllunio

5. DATGANIADAU O DDIDDORDEB

- a) Derbyn unrhyw ddatganiadau o ddiddordeb gan Aelodau yn ymwneud ag eitemau sydd i'w hystyried ar yr agenda.
- b) Derbyn ceisiadau aelodau fod cofnod yn cael ei wneud o'u haelodaeth ar gynghorau tref neu gymuned lle cafwyd trafodaeth ar faterion sydd i'w hystyried gan y Pwyllgor hwn.
- c) Derbyn datganiadau gan Aelodau'r Pwyllgor y byddant yn gweithredu fel 'Cynrychiolydd Lleol' ar gyfer cais unigol sy'n cael ei ystyried gan y Pwyllgor.
- d) Nodi manylion Aelodau'r Cyngor Sir (sydd ddim yn Aelodau o'r Pwyllgor) a fydd y gweithredu fel 'Cynrychiolydd Lleol' ar gyfer cais unigol sy'n cael ei ystyried gan y Pwyllgor.

6. CEISIADAU CYNLLUNIO I'W HYSTYRIED GAN Y PWYLLGOR.

Ystyried adroddiadau'r Pennaeth Adfywio, Eiddo a Chomisynu a gwneud unrhyw benderfyniadau angenrheidiol arnynt.

(Tudalennau 17 - 18)

6.1. Diweddariadau

Bydd unrhyw ddiweddariadau yn cael eu hychwanegu i'r Agenda, fel Pecyn Atodol, lle bynnag bo hynny'n bosibl, cyn y cyfarfod.

(To Follow)

6.2. P/2017/0078 Tir yng Nglasgwm, Glasgwm, Powys

(Tudalennau 19 - 34)

6.3. P/2017/0172 The Rhos, Pontffranc, Llandrindod, Powys, LD1 5SA

(Tudalennau 35 - 60)

7.	PENDERFYNIADAU APÊL
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Derbyn penderfyniadau'r Arolygydd Cynllunio ynglyn ag apeliadau ac apêl am gostau.

(Tudalennau 61 - 74)

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

CYNGOR SIR POWYS COUNTY COUNCIL

PLANNING, TAXI LICENSING & RIGHTS OF WAY COMMITTEE

DATE: 3rd August 2017

REPORT AUTHOR: Senior Licensing Officer

SUBJECT: Vehicle Licence Conditions

REPORT FOR: Decision

1 SUMMARY

- 1.1 To revise the authority's conditions for licensed Hackney Carriage and Private Hire Vehicles that were last updated in 2014.

2. BACKGROUND

- 2.1 The authority administers the licensing regime for Hackney Carriages (taxis) and Private Hire Vehicles, currently licences are issued subject to locally set conditions, the power to do this is contained in The Local Government (Miscellaneous Provisions) Act 1976 Sections 47 (Hackney Carriages) and 48 (Private Hire Vehicles). The authority may attach such conditions they consider reasonably necessary, the overriding purpose of the taxi licensing regime is public safety.
- 2.1 The current vehicle licence conditions were last considered in 2014, since then a number of issues have arisen locally in relation to:
- Use of in-car CCTV by taxi operators
 - Issues with wheelchair accessible vehicles possibly being capable of carrying more than 8 passengers (classifying them as PSV)
 - New offences in relation to carrying wheelchair passengers
 - Issues with the display of vehicle plates, including exemptions for some private hire vehicles.
 - Inconsistencies in assessing seating capacity (our dimensions vs the vehicle log book)
 - Increased use of roof boxes and trailers to carry luggage on airport runs '
- 2.2 As a result a number of amendments to the licence conditions are proposed and a revised document is produced at Annex A, the additions/amends are set out in red text.
- 2.3 There is no statutory requirement to consult with the taxi trade on the revised conditions, but it is the intention to do so via a taxi newsletter to be either sent or emailed out to all licensed drivers, the proposed

conditions will also be available to view on the taxi licensing pages of the Council's web site. A copy of the prepared newsletter is attached at Annex B.

- 2.4 Members are asked to consider the revised conditions for approval. If approved the taxi trade will be consulted via a taxi newsletter and will have 14 days to make a response. Should there be no responses then the new conditions will be implemented for all new vehicle licences issued after the end of consultation; however should there be any objections it is proposed that they will be referred to the Chairman and Vice Chairman of the Planning, Taxi Licensing and Rights of Way Committee who will consult with the Senior Licensing Officer and consider any necessary action.

3.0 One Powys Plan

Licensing contributes in a cross cutting manner to various aspects of the One Powys Plan and the proposal serves to build on this.

4.0 Options Considered/Available

Do nothing and leave the current conditions in place.

5.0 Preferred Choice and Reasons

The justification for updating the licence conditions is to address issues that have arisen and the amendments proposed are considered reasonable

6.0 Sustainability and Environmental Issues/Equalities/Crime and Disorder,/Welsh Language/Other Policies etc

The proposal does not have any impact on any of the above.

7.0 Children and Young People's Impact Statement - Safeguarding and Wellbeing

- 7.1 The proposal does not have any impact on the above.

8.0 Local Member(s)

- 8.1 This report has no particular significance on one or some electoral divisions.

9.0 Other Front Line Services

- 9.1 This report has no impact on front line services.

10.0 Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)

- 10.1 Finance Business Partner for Places notes the context of the report.
- 10.2 The Professional Lead-Legal notes that the recommendation in this report follows the industry's usual practices and the Legal services will give their support and assistance where and when required.

11.0 Local Service Board/Partnerships/Stakeholders etc

- 11.1 The proposal has no impact on Local Service Board / Partnership Stakeholders.

12.0 Corporate Communications

- 12.1 Communications Comment: Communication will be taking place with the sector, no additional proactive communication action required.

13.0 Statutory Officers

- 13.1 The Strategic Director Resources (S151 Officer) notes the comments made by finance.
- 13.2 The Solicitor to the Council (Monitoring Officer) has commented as follows: "I note the legal comment and have nothing to add to the report".

14.0 Members' Interests

- 14.1 The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

Recommendation:	Reason for Recommendation:
(i) That the revised vehicle licence conditions set out at Annex A are approved for consultation with the taxi trade via a trade newsletter sent to all drivers. The trade will have 14 days to respond.	To commence consultation on revised vehicle licence conditions for hackney carriages and private hire vehicles licensed by Powys County Council.
(ii) That the consideration of any objections to the revised conditions be delegated the Chairman and Vice Chairman of the Planning, Taxi Licensing and Rights of Way Committee in consultation with the Senior Licensing Officer.	
(iii) That subject to recommendation (ii)	To ensure up to date vehicle

the revised vehicle conditions will come into effect for vehicle licences issued after the end of consultation.

conditions are applied to all licensed hackney carriage and private hire vehicles in Powys to promote public safety.

Contact Officer	Tel:	Email:
Sue Jones	01597 827389	Susan.jones@powys.gov.uk

Relevant Portfolio Member(s): Jonathan Wilkinson

Relevant Local Member(s): N/A

Background Papers used to prepare report:

Local Government Miscellaneous Provisions Act 1976

CYNGOR SIR POWYS COUNTY COUNCIL

HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

Introduction

In the conditions set out below, the Licensing Authority is Powys County Council.

The Licensing Review Panel comprises 3 elected members of the Council's Licensing Committee and has the authority to determine matters concerning individual licences or applications for licence.

These conditions apply the Council's policy concerning all motor vehicles licensed in Powys as hackney carriages or private hire vehicles.

The purpose of the Council's policy is to promote the safety of the public by ensuring that licensed vehicles are properly insured; suitable in type, size and design; in good mechanical condition; safe; comfortable and easily recognisable by the public as hackney carriages or private hire vehicles.

A proprietor or operator is responsible for a vehicle being licensed and insured, and must ensure that it complies with these conditions.

MOTOR VEHICLE LICENCE CONDITIONS

1. General

1.1 A private hire or hackney carriage vehicle licence will remain in force for up to 1 year (unless suspended, revoked or cancelled).

1.2 The applicant shall pay the appropriate application fees as determined by the Council's Licensing Committee.

1.3 The loss or theft of the vehicle licence, plate or window sticker must be reported to the Licensing Officer immediately.

1.4 A licensed hackney carriage will be entitled to operate from any of the appointed hackney carriage ranks in Powys.

1.5 The licence holder shall notify the Council in writing of any change to his or her name or address during the period of the licence within 7 days of the change.

1.6 Once a vehicle licence has been granted, it cannot be transferred to another vehicle, as there is no legal mechanism for this. However, a licence

can be transferred between proprietors. A separate transfer application form is available for this.

2. Mechanical Condition

2.1 The vehicle and all its fittings shall be kept in a safe, reliable, tidy and clean condition. All relevant statutory requirements (particularly those contained in The Road Vehicles(Construction and Use) Regulations 1986 and associated amendments)* shall be complied with in full. The vehicle shall be kept in good repair and its interior and windows kept clean and maintained fit for public service.

****Copies of The Road Vehicles (Construction and Use) Regulations 1986 (as amended) can be purchased from The Stationery Office Ltd, PO Box 29, St Crispins House, Duke Street, NORWICH NR3 1GN; telephone: 0870 600 5522; fax: 0870 600 5533; e-mail: esupport@theso.co.uk; website: <http://www.the-stationery-office.co.uk/> A consolidated version of these regulations can also be found in Sweet and Maxwell's Encyclopaedia of Road Traffic Law and Practice (Construction and Use) which may be available in larger reference libraries.***

2.2 A vehicle must be submitted to the Licensing Officer for inspection before the grant or renewal of a licence. Additional inspections during the period of the licence may be required at the discretion of the Licensing Officer.

2.3 In the case of vehicles more than 1 year old and less than 8 years from the date of first registration, an MOT certificate issued by a vehicle testing station no more than 28 days prior to the date of application, must be submitted with an application.

2.4 In the case of vehicles more than eight years old from the date of first registration, an MOT certificate issued by a vehicle testing station, no more than 28 days prior to the date of application, must be submitted with an application. A further MOT certificate must be submitted to the Licensing Officer not more than 6 months from the date of issue of the previous certificate. Failure to provide a valid MOT certificate may result in a vehicle being prohibited from use (see paragraph 2.8 below).

2.5 Where a licensed vehicle has been involved in an accident, the Licensing Authority may require an MOT certificate following the repair of the vehicle, and prior to it being brought back into use.

2.6 A valid vehicle registration document and valid certificate of insurance, specifically covering private hire or hackney carriage use complete with schedule, appropriate to the vehicle's intended use, must accompany an application for a private hire or hackney carriage vehicle licence. All of these documents must identify clearly the vehicle to be licensed. If the operator has a fleet insurance policy, a copy is to be submitted at the time of application.

2.7 Vehicles must comply with the requirements of the Road Traffic Acts, together with any Orders and Regulations made under the Act.

2.8 Where a vehicle has been certified fit for use, but later reveals a defect which, in the opinion of an authorised officer of the Licensing Authority, renders it unsuitable for public service, notice will be served on the proprietor, prohibiting the use of the vehicle as a hackney carriage, or for private hire, until the defect has been remedied to the satisfaction of the Licensing Authority. This approach may be taken also where the proprietor of a vehicle fails to provide an MOT certificate in accordance with paragraph 2.5 above, or where a manufacturer has recalled a vehicle for modification.

2.9 Any damage to a hackney carriage or private hire vehicle, materially affecting the safety, performance or appearance of the vehicle shall be reported to an authorised officer of the Licensing Authority by the next working day. The Licensing Authority may prohibit the use of the vehicle in accordance with the terms of condition 2.8.

2.10 Any alteration in the design or construction of a vehicle, or its equipment, subsequent to the issue of an MOT certificate, must be notified to the Licensing Authority immediately.

3. Safety and Design

3.1 On application for the grant or renewal of a vehicle licence, or at the discretion of a Licensing Officer, following an accident, a vehicle must be presented to an authorised officer of the Licensing Authority, for examination at a time and location specified by the officer.

3.2 Vehicles must conform to the specifications and restrictions set out below, namely:

(a) Be fitted with a right hand drive and have at least three points of access and egress, fitted with a mechanism to enable each door to be opened internally and externally.

(b) Be so constructed that the doors open sufficiently wide as to allow easy access to, and egress from, the vehicle.

(c) Internally and externally must be maintained in a safe and clean condition at all times to a standard commensurate with passengers reasonable expectations.

(d) Tinted windows will only be permitted in accordance with the manufacturers or specialist coachbuilder's specification and must comply with the Road Vehicles (Construction & Use) Regulations 1986.

(e) No vehicle shall be fitted with any form of additional film to darken or tint the glass on any part of the vehicle.

(f) A seat belt in good condition shall be available to each passenger.

(g) An installation certificate from a LPGA Approved UK Vehicle Conversion Company, must be provided in the case of vehicles converted to run on LPG.

3.4 The maximum number of passengers carried by a hackney carriage or private hire vehicle will be at the discretion of the Licensing Authority, but will not exceed eight. In determining the number, regard will be given to the numbers of occupants, as stated on the V5, the manufacturer's specifications, current legislation, relevant guidance and best practice.

3.5 Minibuses that have been adapted to accommodate either multiple wheelchair passengers or a combination of both wheelchair and non-wheelchair passengers will be considered for licensing, provided that the seating capacity is no more than 8 passengers.

3.6 Vehicles presented with 8 passenger seats that are capable of carrying wheelchair passengers in addition, are considered to be Public Service Vehicles and cannot be licensed as Private hire or Hackney Carriage.

Before purchasing a vehicle intended for use as a hackney carriage or for private hire, proprietors or operators may wish to contact the Licensing Authority in order to determine in advance the maximum carrying capacity of the vehicle.

3.7 A vehicle licensed as a hackney carriage or for private hire, shall at all times, carry a standard first aid kit, equipped to the satisfaction of the Licensing Authority, and marked with the plate number of the vehicle.

3.8 A vehicle licensed as a hackney carriage shall, on acceptance of a booking from a disabled person accompanied by a guide, hearing or prescribed assistance dog, carry the dog without additional charge. Similarly, an operator of a licensed private hire vehicle shall accept bookings from, or on behalf of a disabled person, accompanied by a guide, hearing or assistance dog, and shall instruct the vehicle driver to carry the dog without extra charge.

Drivers are able to seek exemptions from these duties only on medical grounds, such as severe asthma, aggravated by contact with dogs or due to other allergies or acute phobias to dogs.

3.9 Any driver of a vehicle licensed either as a Hackney Carriage or Private Hire, which is included on the Local Authorities designated list shall :-

- (i) Transport wheelchair users in their wheelchairs
- (ii) Provide passengers in wheelchairs with appropriate assistance
- (iii) Charge wheelchair users the same as non-wheelchair users

Further information can be found at
www.legislation.gov.uk/ukpga/2010/15/contents

Any driver who suffers from a disability or condition which would make it difficult for them to provide physical assistance can apply for an exemption.

In both cases, drivers will have to make an application to the Licensing Authority for an exemption, supported by evidence from an appropriate health care professional.

3.10 In accordance with the Smoke-Free Premises (Wales) Regulations 2007, smoking inside a vehicle used for public transport is not permitted by a driver or passengers, **and is an offence under the regulations**. Hackney Carriage and Private Hire Vehicles therefore shall be smoke-free at all times and display the legally required signage to this effect.

3.11 For the purposes of these guidelines the term "CCTV system" will include any electronic recording device attached to the inside of vehicle having the technical capability of capturing and retaining visual images and audio recording from inside or external to the vehicle.

3.12 CCTV is not mandatory, however where installed:

- (a) The holder of the licence must notify the Licensing authority in writing within 7 days of installing a CCTV system in the vehicle:**
- (b) In-vehicle CCTV systems should be fitted safely and securely so as not to pose a risk to the driver, passengers or other road users:**
- (c) Equipment must not obscure or interfere with the operation of any of the vehicles standard and or mandatory equipment:**
- (d) In-vehicle CCTV systems must not be used to record conversations between members of the public**
- (e) The proprietor of the vehicle will ensure that appropriate signage is displayed within the vehicle:**
- (f) Follow the guidelines as laid out with the Information Commissioners Office, which can be found at <https://ico.org.uk/for-the-public/cctv/>**

4. Identification and Signage

4.1 A hackney carriage or private hire vehicle shall display a plate of a colour and design approved by the Licensing Authority. The plate will show the vehicle licence number and the number of passengers a vehicle is licensed to carry. The vehicle plate shall be fixed to the rear bodywork of the vehicle in a position approved by the Licensing Officer.

4.2 Private hire operators providing Executive Hire may wish to apply for an exemption from the requirements to display a private hire plate because of the

nature of their vehicles and their business. The vehicle to be exempted must be:

- High quality in terms of brand and condition
- The vehicle will be larger than the Ford Mondeo class and will normally be an accepted luxury brand such as Mercedes Benz, BMW, Jaguar, Rolls Royce, Bentley and Lexus. The highest specification executive cars from other manufacturers may also be considered, in addition American style stretch limousines may also qualify
- The vehicle will be in an immaculate condition with no visible defects, dents or blemishes to the external bodywork or internal trim
- The vehicle is used for executive or special occasion work only e.g. corporate events, conferences, chauffeured services.

Operators must submit their application using the prescribed form. Any exemption notice issued by the council must be carried in the vehicle along with the plate and produced on request to an authorised officer of the Council or any Police Officer

****Note: It is an offence for a hackney carriage or private hire vehicle not to display a plate approved by the Licensing Authority except for any executive private hire vehicle issued with an exemption notice.***

4.3 No other fittings or signs except those provided for in conditions 4.4 to 4.9 below shall be attached to, or carried on the inside or outside of the vehicle unless approved in writing by the Licensing Authority. A hackney carriage or private hire vehicle plate carries the details of the vehicle to which it is attached. Therefore a plate is not transferable to another vehicle. It remains the property of the Council and must be returned immediately the vehicle ceases to be licensed.

4.4 A hackney carriage or private hire vehicle shall display on the nearside of the windscreen an adhesive label, provided by the Licensing Authority, bearing the vehicle registration number, the hackney carriage or private hire vehicle number, the licence expiry date and the number of passengers the vehicle is licensed to carry.

4.5 Hackney carriages must be distinguished by the display of a roof sign including the word 'TAXI', 'TACSI' or 'CAB' capable of being illuminated. **In exceptional circumstances, on agreement with the licensing authority an illuminated window sign will be permitted.** The sign shall be of a design and size approved by the Licensing Officer, and may include also a trade name and telephone number(s). The word 'TAXI', 'TACSI' or 'CAB' must be visually predominant.

4.6 For private hire vehicles a roof sign bearing a trade name not including any one of the words set out in condition 4.5 is permissible.

4.7 A purpose built metropolitan cab (for example, FX4 and TX1), or any vehicle designed solely for use as a hackney carriage, will not be accepted for licensing as a private hire vehicle.

4.8 Two Advertisements (other than those relating to the operating company), not larger than 600mm² (2 sq ft) in area, or up to a total of six advertisements where they do not exceed 300mm² (1 sq ft), may be displayed on licensed hackney carriage or private hire vehicles. The Licensing Authority must approve the position, design and content of any advertisement, prior to it being displayed on a vehicle. Any such advertisement must be in good taste and considered unlikely to cause offence. A private hire vehicle shall not carry any sign or advertisement connected with a hackney carriage business.

5. Meters and Fares

5.1 The proprietor of a hackney carriage shall ensure the vehicle is fitted with a taximeter approved by the Council, and that meter shall be maintained in a sound mechanical condition at all times. A Private Hire Operator shall ensure that no private hire vehicle is fitted with a taximeter.

5.2 The taximeter shall be set at no more than the current maximum tariff agreed by the Council and shall be sealed to prevent unauthorised adjustment of that meter. An **approved** calibration certificate signed by the meter installer will be provided to verify the tariff at which the meter has been set. The proprietor shall ensure the "For Hire" sign or other illuminated sign is extinguished when the fare commences, and the taximeter brought into operation.

5.3 The proprietor shall ensure that a copy of the current maximum fare table supplied by the Council is on display inside the hackney carriage at all times and that the table is clearly visible to passengers when the vehicle is for hire. In addition where the meter has been set at a different (lower) tariff than this table of fares must also be on display and clearly visible to passengers.

6. Insurance and other Certificates

6.1 A proprietor or operator providing a hackney carriage or a private hire vehicle must ensure that any driver holds a valid joint hackney carriage and private hire vehicle driver's licence and badge, issued by the Licensing Authority.

Note: It is an offence to drive a licensed vehicle without first holding a joint hackney carriage and private hire driver licence, in addition it is an offence for the proprietor of the vehicle if he employs an unlicensed driver to drive a licensed vehicle

6.2 A valid vehicle registration document, MOT certificate and insurance certificate must be produced on request by an authorised officer of the Licensing Authority, at any time during the licensing period.

7. Record Keeping

7.1 In order to enable the Licensing Authority in making a decision in relation to the Council's Intended Use Policy for Hackney Carriages all hackney carriage proprietors will be required to keep a legible record, written or electronic, of all journeys carried out by the vehicle. The following particulars of every journey undertaken shall be recorded

- a) The time and date of pick up
- b) The point of pick-up;
- c) The destination;
- d) Where the journey was pre-booked the name and contact details of the hirer

Where the vehicle is regularly used for a contract e.g. schools, it will sufficient to record the details of the contract i.e. pick-up point / destination / days of week for which contract is effective / date contact commenced / date contact terminated rather than each journey relating to that contract. Records in hard copy must be produced on request by an authorised officer of the licensing authority within 14 days

8. Trailers

8.1 All trailers must comply with all regulations relating to the construction and use of trailers.

8.2 The trailer shall be fully covered for protection against wind and rain penetration and secured for the protection of the luggage carried.

8.3 Trailers shall be equipped with either, • A spare wheel in good condition and the tools to change wheel, or • An emergency puncture repair kit.

8.4 Where fitted, spare wheels shall meet the legal tread depth limit and the tools to change a wheel shall be maintained in good working order.

8.5 Emergency repair kits shall be maintained in a good condition and shall not have passed the expiry date.

8.6 Trailers shall not be used when plying for hire.

9. Roof Boxes

A roof box may be fitted, providing:

- i) It must comply with Road Traffic (construction and use) Regulations, and be appropriate for the type of vehicle used.
- ii) The roof box must be of enclosed container construction (not an open roof rack with loose cover).
- iii) The roof box must only be used for the purpose of extra luggage, such as golf clubs, large suitcases etc., and not for the carriage of goods or livestock.
- iv) The hirer must be with the vehicle at the time the roof box is in use.

- v) No part of the roof box or fitments to remain on vehicle when not being used for carrying extra luggage.
- vi) No advertising, wording or numbers to be allowed on the roof box.

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

TAXI UPDATE



Street Pastors have arrived in Brecon

Street pastors are trained volunteers from local churches who have a genuine concern about their community. They are there to assist any individual who may be in need of support or assistance. Examples of assistance they have been able to offer so far, include:

- Using the knowledge of taxi drivers in finding people who have been separated from their group of friends.
- Offering basic first aid and water where necessary
- Clearing up glass so that no injuries can be caused
- Removing glass from the road ensures that it doesn't puncture vehicle tyres
- Giving out Taxi numbers to youngsters at the end of an evening
- Directing individuals to the taxi rank
- Issuing Flip Flops and spikes to prevent further accidents
- Staying with an injured individual until an ambulance arrives

Brecon Street Pastors underwent extensive training, to ensure that they had the required skills to offer assistance where necessary. A total of 15 street pastors were commissioned on the 4th November 2016 and since then they have been patrolling the streets of Brecon on a Saturday night. Groups of 4 street pastors can be seen between 10 p.m. to approximately 4 a.m. Saturday night, to care for, listen to and help people who are out on the streets. Brecon Police fully support the work that is being undertaken by the Brecon Street Pastors and see their role as a key tool to tackle the issues around the Night time Economy of Brecon. As such they are keen that all Licensed Premises and Licensed Taxi's work with and assist the street pastors when necessary. If you need to contact Brecon Street Pastors they carry a Patrol Mobile which is **07754 384 386**.

Updated Vehicle Conditions

An update of the Conditions that apply to all licensed vehicles is proposed and the revised conditions will be open for consultation once they have been considered by committee. They will be available to view on the Council's website at <http://www.powys.gov.uk/en/licensing-trading-standards/taxis-and-private-hire-licences/> if you are unable to view the conditions on-line a hard copy is available on request from your local licensing office. The Consultation will run for **14** days and comments fed back to the licensing authority will be considered before final approval by committee and implementation shortly after. In summary the main changes are:

- Licence plates must be fixed on the rear of the vehicle, there will no longer be any discretion to permit plates in windows
- Exemption Certificates for Private Hire vehicles not to display the plate will apply strictly to executive car services only
- Conditions in relation to the use of CCTV are introduced (please note this does NOT make CCTV mandatory)
- Conditions in relation to the use of Trailers and Roof boxes are introduced
- Seat Dimension conditions will no longer apply and reliance will be made on manufacturer's recommendations and the registration document when considering seating capacity.
- The requirement to carry a Fire extinguisher is considered ineffective and we propose to remove this

Taxi Drivers, Private Hire Operators and Immigration Act 2016

Since 1st December 2016 all drivers who apply for a joint HC & PHV driver licence or a Private Hire Operator Licence must demonstrate that they are entitled to work in the UK, an original document such as **a UK or European Union Passport OR a birth certificate issued in the UK together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer*** will need to be presented on application and the authority is required to retain a copy of that document. This requirement applies to driver renewals also, however once the document has been presented it will not need to be re-presented on subsequent renewals, in practice you will usually be presenting these documents as proof of ID in order for a DBS check to be carried out. If an applicant has a time-limited right to remain and work in the UK then any licence can only be issued up until this date.

* For a full list of acceptable documents please check the procedure notes on the taxi pages of the Council website.

New Taxi Fares

Thank you to all those drivers who responded to our survey on Fares that was circulated by e-mail last month. The fares chargeable by Hackney Carriages in Powys were last reviewed in 2011 and while fuel prices are less than they were in 2011, it is appreciated that other costs associated with running a licensed vehicle will have risen. The purpose of the questionnaire was to gauge the appetite for a review and 58% of those who responded wanted at least some elements of the tariffs to increase compared to 24% who didn't want any change. Based on the responses received there was most demand for:

- An increase to the Flag for Tariff 1
- An increase to the Running Mile Rate for Tariffs 2 & 4
- Bring Forward the start time for Tariff 2 (currently midnight)

We have taken this into account and propose the following changes to the current tariffs:

- Increase Flag 1 tariff 1 from £3.40 to £3.60
- Increase the Running Mile Rate at Tariffs 2 and 4 from £2.20 to £2.40
- Bring forward the start time for Tariff 2 from midnight to 11pm

These changes will need to be reported to ~~Cabinet~~ and will then go out for a 14-day public consultation (via newspaper and the council's website). Any objections will be considered before final approval by ~~Cabinet~~ and implementation shortly after. Vehicle Proprietors may then wish to have their meters re-calibrated to reflect the changes agreed, however you are NOT required to re-calibrate your meter and may wish to retain the current tariffs, an up to date tariff card must be on display though.

New Duties under the Equality Act 2010

Under this Act, from 6th April 2017 it becomes an offence for a licensed driver who is driving a vehicle that is designated by the council as wheelchair accessible to:

- Refuse to carry passengers in wheelchairs
- Fail to provide appropriate assistance to passengers in wheelchairs or
- To charge them extra

Drivers who have a medical condition that prevents them from giving assistance can apply for an exemption. The authority will be designating any vehicle that it considers wheelchair accessible (usually via a ramp or lift) and has been licensed for a wheelchair seat; these vehicles will appear on a list that must be published. We will be publishing this list on the Council's website, it will show the make and model of the vehicle, whether the vehicle is licensed as Private Hire or Hackney Carriage and the name of the vehicle proprietor. Anyone who has a vehicle considered to be wheelchair compatible will receive a letter advising that they will be on the list of designated vehicles.

Some other Bits and Pieces:

- The penalty for using a mobile phone whilst driving has now doubled to a fine of £200 and 6 penalty points. A licensed driver may be referred to the Licensing Committee where there are more than two minor traffic offences
- Contacting drivers by e-mail is quick, inexpensive and efficient, if we don't hold your e-mail address then please make sure you provide it to us at the earliest opportunity, this way you will be kept better informed of any updates or planned changes that might affect you
- Please note that all our forms and conditions along with guidance notes to applicants are available on line at <http://www.powys.gov.uk/en/licensing-trading-standards/taxis-and-private-hire-licences/>
- We would like to maintain an on-line list of all licensed Private Hire operators and Hackney carriage Proprietors with contact details so that we can promote your services and for customers to ensure that they are using a licensed service. You can opt out of featuring on this list by indicating so on the application form next time you renew or licence a vehicle
- In our last newsletter we featured Safeguarding as an issue that may come to your attention during the course of your role as a taxi driver. For further information Barnardo's have produce a useful leaflet http://www.barnardos.org.uk/spot_the_signs_professionals
- pdf Safeguarding is a serious and important matter and the Council is currently considering what more we can do to effectively raise the profile of this issue amongst taxi drivers who are so often the eyes and ears of the community
- Please remember not to leave your vehicle unattended on the rank. Only Hackney Carriages that are waiting/queuing for passengers should be parked in the rank. Any offenders may be subject to action either by parking enforcement officers or the Licensing Section, as appropriate

If you need to contact us regarding any of the above or need to speak to a member of the team regarding Taxi Licensing our contact details are:

Tel: 0845 602 7037 and ask for licensing in the relevant area office, Brecon and Llandrindod Wells or Welshpool. Email: licensingbandr@powys.gov.uk / licensingmont@powys.gov.uk

Planning, Taxi Licensing and Rights of Way Committee
3rd August 2017

For the purpose of the Government (Access to Information) Act 1985, the background papers relating to each individual planning application constitute all the correspondence on the file as numbered in the left hand column.

Applications for consideration by Committee:

Application No: Community: O.S. Grid Reference: Date Received:	Nature of Development: Location of Development: Applicant: Recommendation of Head of Planning:
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P/2017/0078 Glascwm Community 315770.54 253230.59 31/01/2017	Full: Erection of a single dwelling, creation of access, installation of septic tanks and all associated works Land at Glascwm, Glascwm, Powys Shelia Powell C/o Agent Recommendation: Conditional consent
P/2017/0172 Glascwm Community 312042.17 256269.52 10/02/2017	Outline: Erection of two dwellings, a treatment plant and all associated works (all matters reserved) The Rhos, Franksbridge, Llandrindod Wells, Powys, LD1 5SA Mr Selfe & Mrs Lewis, The Rhos, Franksbridge, Llandrindod Wells, Powys, LD1 5SA Recommendation: Conditional consent

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

6.2

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2017/0078	Grid Ref:	315770.54 253230.59
Community Council:	Glascwm	Valid Date:	Officer: 31/01/2017 Tamsin Law
Applicant:	Sheila Powell c/o Agent		
Location:	Land at Glascwm, Glascwm, Powys		
Proposal:	Full: Erection of a single dwelling, creation of access, installation of septic tanks and all associated works		
Application Type:	Application for Full Planning Permission		

The reason for Committee determination

The application is to be determined by planning committee as it represents a departure from the development plan.

Site Location and Description

This site is located off the C1336 classified highway in the rural settlement of Glascwm. The site is located adjacent to existing dwellings within the rural settlement. The existing site is currently used as agricultural grazing land bound by mature hedgerows with the classified highway to the south of the site.

This application represents a departure from the current Unitary Development Plan and seeks full consent for the erection of one three bedroom market dwelling and construction of vehicular access. Initially the application sought consent for two open market dwellings however following concerns raised by Officers this was reduced to a single dwelling.

The dwelling measure approximately 11.4 metres in width, 8.2 metres in length, with a maximum height of 8.3 metres falling to 5.3 metres at the eaves. The dwelling will be finished with stone and rendered walls, a slate roof and timber windows and doors.

Consultee Response

Glascwm Community Council

Please can you note that a request has come into the Community Council to have the following addition added to the email sent to the planning department regarding planning application P/2017/0078. Discussions held with members of the public at the meeting resulted in a request that the planning application be made for the properties to be "affordable dwellings".

PCC - Building Control

Building Regulations approval will be required for this proposal.

PCC - Highways

1st Response

The application site has previously benefitted from a conditional consent for the provision of four dwellings under planning application PR106/04; the principle of development from a highway perspective is therefore established. The Highway Authority would not therefore object to the proposal, subject to the inclusion of appropriate highway conditions.

It is noted however that the eastern access visibility splay detailed on the layout drawing, passes over land outside of the application site and it is not clear if the land in question is under the control of the applicant. This matter needs to be suitably addressed in order that the following highway conditions can be attached to any consent that may be granted and subsequently enforced thereafter.

HC1 Prior to the occupation of the dwelling any entrance gates shall be set back at least 5.5 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

HC2 The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 5.5 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

HC4 Within 5 days from the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 45 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

HC7 Within 5 days from the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 5.5 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

HC8 Prior to the occupation of the dwellings, provision shall be made within the curtilage of the site for the parking of not less than 3 cars per dwelling together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear.

The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

HC11 Within 5 days from the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.35 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

HC21 Prior to the occupation of the dwellings the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 5.5 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,

HC30 Upon formation of the visibility splays as detailed in HC4 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

HC32 No storm water drainage from the site shall be allowed to discharge onto the county highway.

2nd Response

I refer to the amended plans relating to the above site and have no further comments to make.

Wales & West Utilities

According to our mains records Wales and West Utilities has no apparatus in the area of your enquiry. However Gas piped owned by other GTs and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Cllr Maureen Mackenzie

I am writing in respect of this application which is in my Ward.

This seems to be a revival of an application in the same location by family members which was finally resolved by a public enquiry and the refusal of permission.

I would be grateful if you could let me know where I can locate the papers on that previous decision.

I would also wish to call in this application should it indeed proceed, given the above mentioned circumstances. Can you please take this as a request to be noted.

PCC - Environmental Health

Having taken a look at the proposed development and given consideration to noise creation, I would firstly recommended that the landscaping and construction period working hours and delivery times be restricted as follows:

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

0800 - 1800 hrs Monday to Friday

0800 – 1300 hrs Saturday

At no time on Sunday and Bank Holidays

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

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

Thirdly I will require further information regards the intended septic tanks such as their capacities and size of the drainage fields. Additionally as required by document H2 of the Building Regulations a percolation test needs to be done to ensure drainage fields are sufficiently sized and ground conditions are such that water can drain adequately. This percolation test should be carried out in accordance with document H2 of the Building Regulations with full calculations supplied to Environmental Health and test holes left open for an officer to inspection.

In addition, Welsh Government has advised that, all septic tanks and small sewage treatment plant discharges in Wales will need to be registered with Natural Resources Wales. More information, including a step by step guide to registering can be found at the following link <http://www.naturalresources.wales/media/2879/septic-tank-registration-guidance.pdf?lang=en>.

Clwyd Powys Archaeological Trust

Information retained within the Regional Historic Environment Record indicates that the development is located on the eastern edge of the medieval historic core of Glascwm. There are no recorded archaeological sites here, but there is a potential for previously unrecorded sub-surface archaeology related to the former layout of the medieval village including former timber-framed dwellings and associated features like refuse pits, plot boundaries and light industrial development for eg. corn drying. The plot slopes to the north and on the 2 metre NRW Lidar coverage there is a short length of a possible former trackway through the plot which is undated.

Accordingly we would recommend that an archaeologist is contracted to be present throughout the duration of initial topsoiling, , ground preparation and foundation excavation works in order that an adequate record of any archaeological features revealed by these

works can be made. This advice is in accordance with the guidance set out in WO Circular 60/96 Planning and the Historic Environment: Archaeology and Planning Policy Wales (Chapter 6, Edn. 8 Jan 2016).

The archaeologist should be part of a recognised professional archaeological organisation working to the Standard and Guidance of the Chartered Institute for Archaeologists relating to an Archaeological Watching Brief. The archaeologist should be working in accordance with an approved written scheme of investigation (WSI).

A suitable condition to facilitate the contracted watching brief is provided below along with a guidance note for the applicant on how to commission archaeological works.

Suggested planning condition to facilitate an archaeological watching brief

The developer shall ensure that a suitably qualified archaeological contractor is present during the undertaking of any ground works in the development area so that an archaeological watching brief can be conducted. The archaeological watching brief must meet the standards laid down by the Chartered Institute for Archaeologists Standard and Guidance for archaeological watching briefs. The Local Planning Authority will be informed in writing, at least two weeks prior to the commencement of the development, of the name of the said archaeological contractor. A copy of the resulting report should be submitted to the Local Planning Authority and the Development Control Archaeologist, Clwyd-Powys Archaeological Trust (41 Broad Street, Welshpool, Powys, SY21 7RR Email: markwalters@cpat.org.uk Tel: 01938 553670). After approval by the Local Planning Authority, a copy of the report and resulting archive should also be sent to the Historic Environment Record Officer, Clwyd-Powys Archaeological Trust for inclusion in the regional Historic Environment Record.

Reason: To secure preservation by record of any archaeological remains which may be revealed during ground excavations for the consented development.

I have attached a guidance note on completing watching briefs for the applicant together with an advisory list of contractors who may wish to tender for the work. Please forward these to the applicant so that they are fully informed of the requirements.

Representations

The application was advertised through the erection of a site notice and press advertisement. Fourteen objections have been received and are summarised below.

- The application site is in a rural settlement and is contrary to UDP policies
- There is enough housing in Glascwm
- The proposal is not in-keeping with the existing dwellings in Glascwm
- Concerns raised over highway safety
- Few services in the area
- The application would set a precedent for further applications in the Rural Settlement
- The development could lessen the appeal of the area to visitors and residents
- Previous applications on the site have been refused and dismissed at appeal
- The dwelling would dominate the village and the landscape

- The development site does not represent a sustainable location
- Limited services in the locality
- No evidence submitted to demonstrate that the proposed development would demonstrably sustain the local community
- There are no transport links in the area
- Glascwm is not a sustainable community
- Houses in Glascwm remain on the market for years
- The development would not achieve a balance between housing and employment
- Contrary to policies HP4, HP6, HP8 and HP9 of the Powys UDP.

One anonymous letter was received in support of the application.

Planning History

-P/2009/0522 - Renewal of outline consent PR106 /04 for the erection of four dwellings, new access and installation of private treatment plant. Refused.

-P/2008/1792 -Variation of condition: Variation of condition 1(b) of planning approval PR106/04 to extend the time limit to submit reserved matters (SO 15 SE). Refused.

Principal Planning Constraints

None

Principal Planning Policies

National planning policy

Planning Policy Wales (9th Edition, 2016)

Technical Advice Note (TAN) 1 - Joint Housing Land Availability Study (2015)

Technical Advice Note (TAN) 2 - Planning and Affordable Housing (2006)

Technical Advice Note (TAN) 5 - Nature Conservation and Planning (2009)

Technical Advice Note (TAN) 12 - Design (2016)

Technical Advice Note (TAN) 20: Planning and the Welsh Language (2013)

Technical Advice Note (TAN) 23 - Economic Development (2014)

Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

Local planning policies

Powys Unitary Development Plan (2010):

SP2 – Strategic Settlement Hierarchy

SP4 – Economic and Employment Developments

SP5 – Housing Developments

SP6 – Development and Transport

SP12 – Energy Conservation and Generation

GP1 – Development Control

GP2 – Planning Obligations
GP3 – Design and Energy Conservation
GP4 – Highway and Parking Requirements
ENV2 – Safeguarding the Landscape
ENV3 – Safeguarding Biodiversity and Natural Habitats
ENV7 – Protected Species
TR2 - Tourist Attractions and Development Areas
HP3 - Housing Land Availability
HP4 - Settlement Development Boundaries and Capacities
HP5 - Residential Development
HP6 - Dwellings in the Open Countryside
HP9 - Affordable Housing in Rural Settlements
HP14 – Sustainable Housing
DC1 – Access by Disabled Persons
DC3 – External Lighting
DC8 – Public Water Supply
DC11– Non-Mains Sewage Treatment
DC13 – Surface Water Drainage

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

Officer Appraisal

Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Principle of Development

This application site lies adjacent to existing dwellings which form part of the built area of the rural settlement of Glascwm. The proposal is for a single market dwelling and therefore the proposed development cannot be considered under policy HP9. A single market dwelling in the proposed location represents a departure from the adopted Unitary Development Plan.

Housing Land Supply

Planning policy (TAN1 and UDP HP3) states that the Council needs to have a five year supply of land available for housing. The Powys Joint Housing Land Availability Study (2016) concludes that there is 2.2 years of housing supply.

Housing supply is a material consideration that should be given considerable weight in the determination of this application. TAN 1 states:

'The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply

below the 5-year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies’.

Sustainability

In considering a departure from the Powys Unitary Development plan policies officers must consider the location of the proposed development in terms of the wider sustainability of the development. We must take into account the range of services and facilities available within close proximity to the site and within a short travelling distance.

Glascwm is defined in the UDP as a rural settlement with no allocated sites designated within the plan. The settlement itself has limited services and facilities but the nearby settlements of Hundred House (4.2 miles, approximately 10 minute drive) and Franksbridge (5.3 miles, approximately 15 minute drive) benefits from further services. The site is also located within driving distance of Builth Wells (9.6 miles, approximately 20 minute drive) which has a large range of services and facilities.

Policy HP9 supports proposals for affordable dwellings in rural settlements where dwellings are sensitively located without affecting the amenity and character of the area and where they comply with the affordability criteria of policy HP10 and policy HP7. Given that a proposal for an affordable dwelling on the site proposed would be acceptable in principle, Officers consider that given the current lack of housing land supply the principle of a market dwelling in the proposed location is considered to be acceptable subject to all other materials considerations.

In light of the range of services located within travelling distance of the development site, Officers consider that there is an argument to support the principle of residential development at this location given its siting adjacent to a rural settlement. Therefore, it is considered that the proposed site is considered to be an acceptable location for residential development.

Scale, Design and Appearance

Policy GP3 of the Powys Unitary Development Plan seeks to ensure that development proposals are of an appropriate design, scale, layout and of materials that shall complement or where possible enhance the character of the surrounding area.

It is acknowledged that third parties have raised objections with regards the proposed design of the dwelling. However the use of stone and render echoes materials already in use in Glascwm. The design is a traditional two-storey dwelling and existing hedgerows will be maintained to screen the development. The proposed dwelling measures approximately 11.4 metres in width, 8.2 metres in length, with a maximum height of 8.3 metres falling to 5.3 metres at the eaves.

The existing dwellings are located to the south east of the site and Officers consider that sufficient distance is maintained between the properties to ensure that there will be no detrimental impact on neighbour amenity.

Officers consider that the design, size and scale of the dwelling is in keeping with the area and does not unacceptably adversely affect the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

Landscape and Visual Impact

Policy ENV2 of the Powys Unitary Development Plan seeks to ensure that proposed development will not have an unacceptable adverse impact upon the Powys Landscape. Development proposals should be design in a way to be sensitive to the character and appearance of the surrounding area and landscape.

The proposed site is considered to be well connected to the rural settlement of Glascwm being adjacent to the existing dwellings. It is considered that the siting of the proposed dwellings is acceptable in the proposed location. It is also considered that the proposed site is well integrated within the existing rural settlement and would not have a significant adverse visual impact upon the character and appearance of the surrounding area.

In light of the above, it is considered that the proposed development complies with policies ENV2 and TR2 of the Powys Unitary Development Plan 2010.

Highways Safety and Movement

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking.

As part of this application process the highways authority have been consulted and have commented that part of the visibility required for the dwelling would fall over an area that did not appear to be in the applicants' ownership. Confirmation has been received from the agent on the application that the visibility would remain clear and a condition requiring this visibility will be attached to any consent. Following re-consultation with the Highways Authority no further comments have been made.

In light of the highways officers comments it is considered that the proposed dwellings fundamentally comply with Policy GP4 of the Powys Unitary Development Plan 2010.

Foul Drainage

The proposed foul drainage from the site is in the form of a septic tank. As part of this application process the relevant bodies have been consulted with Powys Environmental Health requiring additional information regarding porosity tests. This information has been received and Environmental Health reconsulted on the information. A response has yet to be received and will be provided as part of an update report.

Welsh Language

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. Technical Advice Note 20: Planning and the Welsh Language provides further advice on how the planning system considers the implications of the Welsh Language. Within

the Powys UDP policy GP5 identifies settlements where the Welsh Language is important to the social, cultural and community fabric of the area. Whilst Glaschwmm has not been identified as one of these areas it is considered that the Welsh Language is a material consideration across the County.

In the 2011 census the Llanelwedd Ward reported that 13.9% of the population spoke Welsh. This is an increase from the 2001 census which stated that 12.56% of the population of Llanelwedd spoke Welsh. Whilst there are limited facilities in the area the development of a single dwelling in this settlement is not considered to have a detrimental impact on the cultural or linguistic vitality of the area.

Other Legislative Considerations

Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

RECOMMENDATION

Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval subject to conditions.

Conditions

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans (drawing no's: 1157-004 and 1157-002) stamped as approved on xxxxx.
3. Prior to the occupation of the dwelling any entrance gates shall be set back at least 5.5 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
4. The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 5.5 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
5. No other development shall commence until the access has been constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 45 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
6. Before any other work commences the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 5.5 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
7. Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 3 cars per dwelling together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.
8. Before any other work commences provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This

parking and turning area shall be constructed to a depth of 0.35 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

9. Prior to the occupation of the dwellings the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 5.5 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,
10. Upon formation of the visibility splays as detailed in 5 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.
11. No storm water drainage from the site shall be allowed to discharge onto the county highway.
12. All works and ancillary operations which are audible at the site boundary shall be carried out only between the following hours:

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

Deliveries to and removal of plant, equipment, machinery and waste, including soil, from the site must also only take place within the permitted hours detailed above.
13. During construction (including soil movement and landscaping activities) the contractor shall take all reasonable steps to prevent dust formation from dusty activities and any dust formed shall be prevented leaving the site by continuous watering down.
14. The developer shall ensure that a suitably qualified archaeological contractor is present during the undertaking of any ground works in the development area so that an archaeological watching brief can be conducted. The archaeological watching brief must meet the standards laid down by the Chartered Institute for Archaeologists Standard and Guidance for archaeological watching briefs. The Local Planning Authority will be informed in writing, at least two weeks prior to the commencement of the development, of the name of the said archaeological contractor. A copy of the resulting report should be submitted to the Local Planning Authority and the Development Control Archaeologist, Clwyd-Powys Archaeological Trust (41 Broad Street, Welshpool, Powys, SY21 7RR Email: markwalters@cpat.org.uk Tel: 01938 553670). After approval by the Local Planning Authority, a copy of the report and resulting archive should also be sent to the Historic Environment Record Officer, Clwyd-Powys Archaeological Trust for inclusion in the regional Historic Environment Record.

Reasons

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.

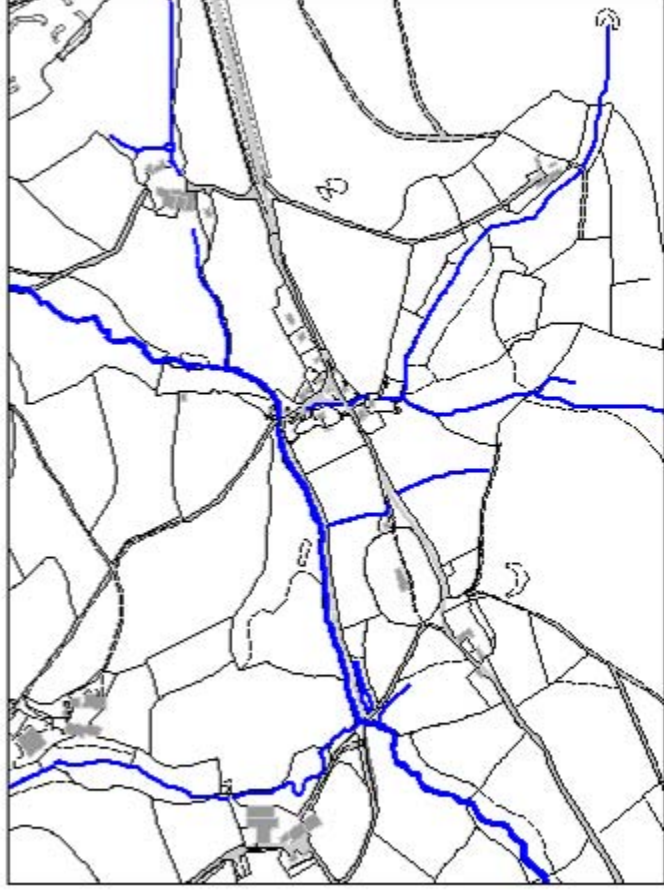
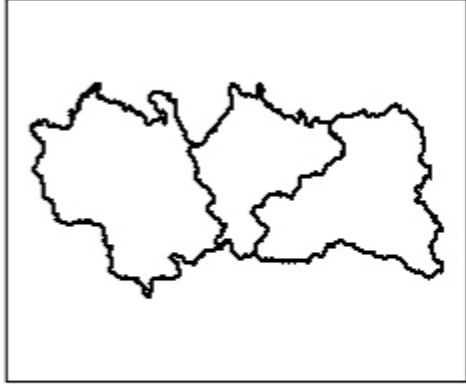
3. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
4. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
5. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
6. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
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8. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
9. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
10. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
11. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
12. In order to control development which has the potential to have adversely affect the amenity of the area in contradiction to policy GP1 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (2016).
13. In order to control development which has the potential to have adversely affect the amenity of the area in contradiction to policy GP1 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (2016).
14. To secure preservation by record of any archaeological remains which may be revealed during ground excavations for the consented development.

Case Officer: Tamsin Law- Principal Planning Officer
Tel: 01597 82 7230 E-mail: tamsin.law@powys.gov.uk

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

Susan Bolter

Location:



2. Căminul este înscris în cartea funciar nr. 2017 Cămin nr. 1072574

* How 'wild' is Guernsey's wildlife? 2017 Amber Ogilby 13002537

Additional Information & Enrollment Agent Agency 2017 //

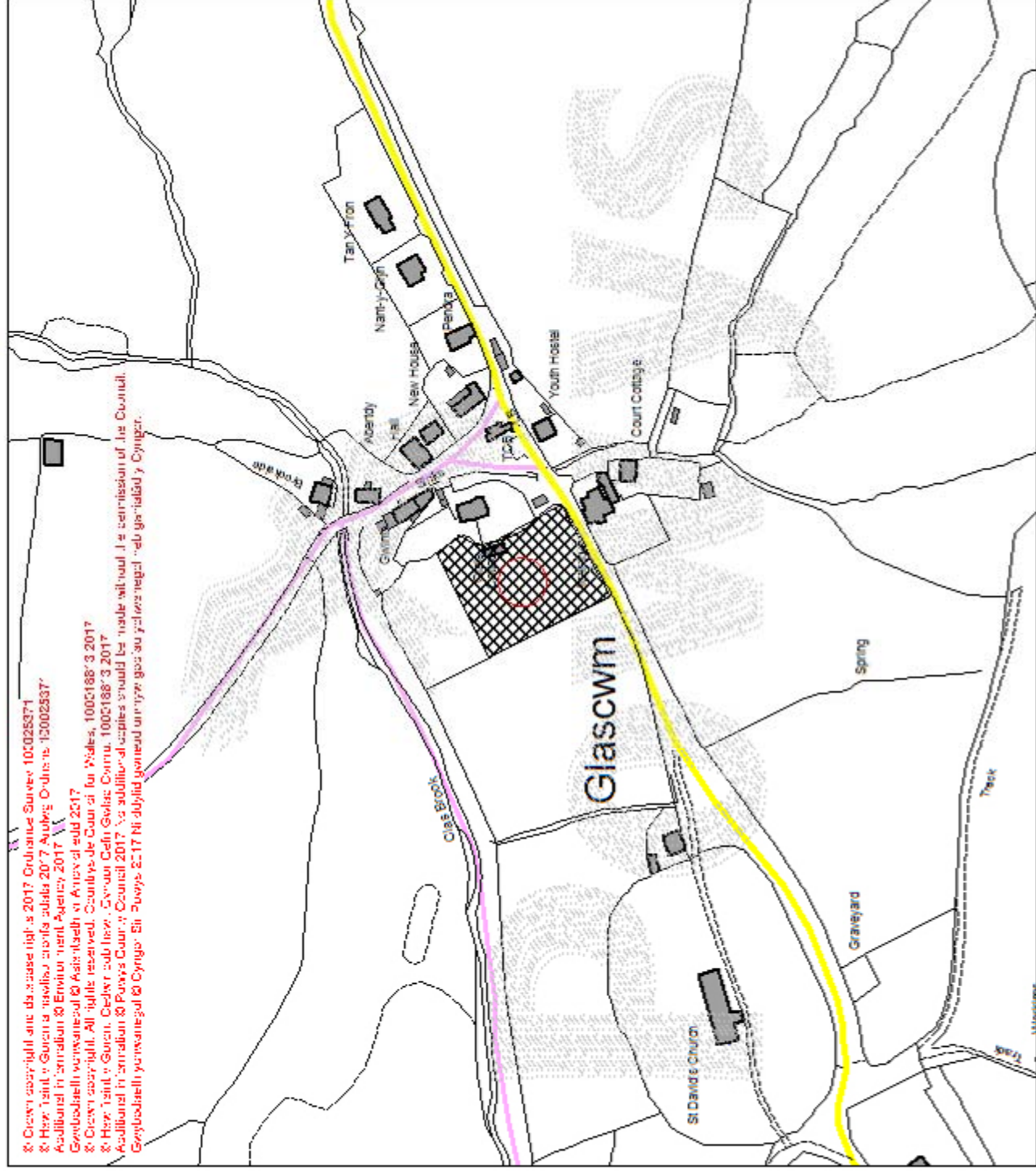
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Geometrically, the intersection of the two cones is a circle. The intersection of the two cones is a circle. The intersection of the two cones is a circle.

of the importance of maternal & child health



Mae'r dudalen hon wedi'i gadael yn wag yn fwiadol

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2017/0172	Grid Ref:	312042.17 256269.52
Community Council:	Glascwm Community	Valid Date:	Officer: 10/02/2017 Lorraine Jenkin
Applicant:	Mr Selfe & Mrs Lewis, The Rhos, Franksbridge, Llandrindod Wells, Powys LD1 5SA		
Location:	The Rhos, Franksbridge, Llandrindod Wells, Powys, LD1 5SA		
Proposal:	Outline: Erection of two dwellings, a treatment plant and all associated works (all matters reserved)		
Application Type:	Application for Outline Planning Permission		

The reason for Committee determination

The application comes before Members as it is a departure from the Powys Unitary Development Plan.

Site Location and Description

The application site is on an area of land on the far north-eastern edge of the village of Franksbridge. The site is currently farmland and has the primary school and its playing fields to the west, open farmland to the east, south and north.

The site is reached by an un-surfaced dead-end track. A public footpath (Footpath GC1576) passes to the west of the site, but will not be affected by the proposal.

The site is outside of the development boundary of Franksbridge by approximately 12 metres. Therefore, for the purposes of the Powys Unitary Development Plan (UDP) the site is defined as open countryside.

Outline consent is sought for two detached dwellings. They will sit side by side, facing the access track. Each will have separate accesses onto the track. A treatment plant and soakaways serving the dwellings will be located to the west of the site. The existing ditch parallel to the road will be culverted. A passing bay will be installed to ease traffic flow.

All matters have been reserved for future consideration.

Consultee Response

Glascwm Community Council
13th March, 2017

Members discussed the application and raised concerns over the following issues – the lay of the ground would mean that drainage could be a problem. The extra vehicles travelling the road next to the primary school could be dangerous. It is against the UDP policy to build outside of the boundary.

PCC - Building Control
15th February, 2017

Building Regulations approval will be required for this proposal.

PCC - Highways
5th April, 2017

The Highway Authority is satisfied that the proposed provision of a vehicular passing bay in addition to the drainage improvements proposed along the U1019 county highway, as detailed on the submitted drawing 4650/1A, will adequately mitigate the small increase in vehicular movements this proposal will generate. Accordingly, the Highway Authority recommends that the following conditions be attached to any consent granted.

HC1 Prior to the occupation of the dwellings any entrance gates shall be set back at least 5.5 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

HC2 The gradient of each access shall be constructed so as not to exceed 1 in 15 for the first 5.5 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

HC3 The centre line of the first 5.5 metres of each access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

HC4 Within 5 days from the commencement of the development the access for each dwelling shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 33 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

HC7 Within 5 days from the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of **5.5** from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

HC8 Prior to the occupation of each dwelling, provision shall be made within the curtilage of the site for the parking of not less than 3 cars per dwelling together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

HC11 Within 5 days from the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.35 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

HC21 Prior to the occupation of each dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 5.5 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

HC30 Upon formation of the visibility splays as detailed in HC4 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

HC32 No storm water drainage from the site shall be allowed to discharge onto the county highway.

HC37 Prior to any works being commenced on the development site the applicant shall construct the passing bay on the U1019 county highway, (as detailed on the approved "Proposed Site Plan") to adoptable standard which is to be agreed in writing by the Local Planning Authority.

Wales & West Utilities
17th February, 2017

According to our mains records Wales and West Utilities has no apparatus in the area of your enquiry. However, Gas pipes owned by other GTs and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

PCC - Environmental Health
10th February, 2017

I have no further concerns (*after clarifying details*)

PCC - Rights of Way
17 February, 2017

Footpath GC1576 passes close to the area outlined for development, and if the development is approved, then the applicant must ensure that this footpath remains open and available for public use.

No public rights of way should be obstructed during the development process and at no time should any materials be placed or stored on the line of any public right of way; any damage caused to the surface of any public right of way must be made good to at least its current condition or better. Should the public footpath be required to be temporarily closed for development purposes then the applicant should make contact with Countryside Services directly to discuss, prior to any works taking place. Any application for a temporary closure needs to be processed and approved before the footpath can be legally stopped-up for a defined period.

Countryside Services therefore has no objections to the proposed application at this time, subject to the guidance information detailed above.

PCC - Ecologist

First Response
27th February, 2017

Ecological Topic		Observations
EIA Screening Requirement	No	The site area is understood to be 0.14 hectares and includes 2 dwellings. Therefore, the development is not considered to meet or exceed the thresholds of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 for the screening of dwelling house developments for EIA since it does not exceed five hectares; include more than 150 dwellings; or include more than one hectare of urban development that is not a dwelling house development.
Ecological Information included with application	No	No ecological information has been submitted with this application. These observations are based on an interpretation of available aerial and street imagery and historical biodiversity records provided by the Powys Biodiversity Information Service. I have also referred to information that was submitted for a recent similar planning application opposite the application site (P/2016/0876). The application site appears to be located within an agricultural field and is bounded by hedgerows to the south and west (which are to be retained, according to plan ref. 4650/1). There are historical records of bat species from within 2km of the site, including a roost of brown long-eared bats approximately 100m to the west. The large trees within the hedgerow that borders the southern side of the site could provide roosting habitat for bat species and it appears that

<p>Protected Species & Habitats¹</p>	<p>European Species</p>	<p>some of these would need to be removed to accommodate the proposals. Bat tree-roosts are extremely difficult to identify, and it should be assumed that any mature native-species tree is an actual roost.</p> <p>All British bat species are European Protected Species by virtue of their listing under Annex IV of EC Directive 92/43/EEC ('The Habitats Directive'). This Directive has been transposed into British Law under the <i>Conservation of Habitats and Species Regulations 2010</i>. Regulation 9(5) of the 2010 Regulations requires all local planning authorities, in the exercise of all their functions, to have regard to the provisions of the Habitats Directive so far as they might be affected by those functions. Under Regulation 41 of the 2010 Regulations it is an offence to:</p> <p><i>(1) deliberately capture, injure or kill any wild animal of a European protected species;</i></p> <p><i>(2) deliberately disturb animals of any such species. Disturbance of animals includes in particular any disturbance which is likely—</i></p> <p><i>(a) to impair their ability—</i></p> <p><i>(i) to survive, to breed or reproduce, or to rear or nurture their young; or</i></p> <p><i>(ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or</i></p> <p><i>(b) to affect significantly the local distribution or abundance of the species to which they belong</i></p> <p><i>(3) deliberately take or destroy the eggs of such an animal; or</i></p> <p><i>(4) damage or destroy a breeding site or resting place of such an animal</i> (including sites that are currently unoccupied).</p> <p>Furthermore all British bats are protected under Schedule 5 of the Wildlife and Countryside Act (1981) (as amended). This legislation makes it an offence to intentionally to kill, injure, take from the wild, possess or trade in any species of British Bat, as well as intentionally or recklessly damage, destroy or obstruct access to any structure or place which bats use for shelter or protection. It is also an offence to disturb a bat/bats whilst they are using such a place.</p> <p>It is therefore recommended that the applicant and contractors be informed of the possibility of encountering bats unexpectedly during tree works. If bats are encountered on site works should stop immediately and NRW should be contacted.</p> <p>As a precaution it is recommended that the following sensitive felling procedure be implemented to minimise disturbance to bat populations:</p> <p>Where tree felling or lopping is planned, such work should only be carried out between September and February to avoid the bird-breeding season.</p> <p>If the tree trunk is smaller than 200mm diameter and if it has no dense ivy, suitable holes, loose bark, and no holes</p>
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		<p>associated with the root system, work can be carried out on the tree between September and February (<i>i.e.</i> avoiding the bird breeding season).</p> <p>To avoid disturbing nursery roosts, work will <u>never</u> be carried out between June and August inclusive.</p> <p>If the tree does have any of the features listed above or has a trunk size greater than 200mm, it should only be cut <u>only</u> in September and October when bats, including young are still mobile and able to fly-out.</p> <p>Any timber cut should be left lying on the ground for at least 24 hours to allow bats the opportunity to escape.</p> <p>Where the loss of mature trees is unavoidable, compensatory planting with appropriate locally native species, preferably of local provenance, should be undertaken.</p> <p>The southern and western boundary hedgerows could also provide commuting and foraging habitat for bat species. If external lighting is required for this development I recommend that an external lighting scheme sensitive to bats and other nocturnal wildlife, including low-powered and short-timed PIR lighting sensitive to large objects only, is used.</p> <p>There are no historical records of Great Crested Newts from within 2km of the site, but a previous consultation reply from the Radnorshire Wildlife Trust for an adjacent planning application.</p> <p>(P/2016/0876) indicated the presence of GCN within 20m of that site. Therefore, since the hedgerows that border the application site could provide suitable habitat for GCN it is considered that some impact could take place to this species without mitigation.</p> <p>Great Crested Newts are European Protected Species (EPS); the animals and their resting and breeding habitats are fully protected under European law, where impacts to EPS are identified, the LPA have to apply the three tests of the Habitats Regulations to ensure that there will be no adverse impact on the favourable conservation status of the EPS. In order for the LPA to satisfy this requirement, full details of the potential impacts and proposed mitigation, are required to be submitted for approval prior to determination.</p> <p>The three tests that must be satisfied are:</p> <p>That the development is “in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment”.</p> <p>That there is “no satisfactory alternative”</p> <p>That the derogation is “not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range”</p> <p>Therefore, a Newt Reasonable Avoidance Method Statement, produced by a suitably qualified and experienced ecologist to demonstrate that the proposed works, including construction</p>
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		activities, will be undertaken in a manner to ensure no negative impacts to GCN and/or their habitats on site needs to be provided before the planning application can be determined.
	UK Species	The boundary hedgerows and trees would appear to provide nesting habitat for a variety of bird species and there are various records of bird species from within 2km of the site. Please see comments below in Section 7 species and habitat.
	Section 7 Species & Habitat	<p>The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>The boundary hedgerows and trees would appear to provide suitable nesting habitat for a variety of bird species. House Sparrow and Starling (Section 7 priority species in Wales) have been recorded nearby and could use the application site for nesting.</p> <p>There would appear to be suitable habitat for Hedgehog and Polecat (both Section 7 priority species) within the hedgerows at the site. There is a previous record of Polecat from within 2km of the application site.</p> <p>I understand that the southern and western boundary hedgerows are to be retained and new hedgerow and trees planted within the application site, which is welcomed. Locally-occurring, native species will need to be used for this and a Species List will therefore be required for approval by the local planning authority. I also recommend that any mature trees within the retained hedgerows are retained and protected within the development site.</p> <p>It would seem likely that the creation of the new access points would require the removal of sections of hedgerow. I suggest that any removed hedgerow is translocated to areas within the development site instead of buying and planting new stock.</p> <p>I recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing. An ecologist should also check for Hedgehogs immediately in advance of site and vegetation clearance works commencing.</p> <p>As a biodiversity enhancement, I recommend that suitable woodcrete nest boxes for House Sparrows and Starlings are</p>

		installed at the site.
	LBAP Species & Habitat	<p>Bird species of Conservation Concern in Powys recorded nesting nearby that could nest at the application site include Goldfinch, Blue Tit and Great Tit. As a biodiversity enhancement, I recommend that suitable woodcrete nest boxes for Blue Tits and Great Tits are installed at the site.</p> <p>See previous comments regarding new hedgerow and tree planting.</p>
Protected Sites	International Sites ²	The Afon Gwy SAC is located approximately 460m west of the application site, on the other side of Franksbridge. Considering its location and distance from the application site and lack of hydrological pathways between them it is concluded that the proposals are unlikely to have any negative impact on this site or its associated features
	National Sites	The Caeau Coed Mawr SSSI is located approximately 590m north-west of the application site and the River Wye (Tributaries) SSSI approximately 460m west of the application site. Considering their location and distance from the application site and lack of hydrological pathways between them it is concluded that the proposals are unlikely to have any negative impact on these sites or their associated features.
	Local Sites (within 500m)	The Werndryd Local Wildlife Trust reserve and Roadside Verge nature reserve are located approximately 5m south of the road widening element of the application site. The close proximity of these sensitive sites to the road widening element of the proposals means that they could be at risk of receiving pollution from any site-generated run-off. A pollution prevention plan demonstrating how site-generated pollution will be prevented from entering these sites is therefore required before a planning application can be determined.
Invasive Non-Native Species	Unknown	No ecological information has been submitted with this application.
Cumulative Effect	Unknown / Unconfirmed	Two new dwelling house plots were approved on the southern side of the road to the application site in December 2016 (P/2016/0876).
Summary of recommendations / further assessment or work		<p>I recommend that the applicant and contractors be informed of the possibility of encountering bats unexpectedly during tree works. If bats are encountered on site works should stop immediately and NRW should be contacted.</p> <p>As a precaution it is recommended that the following sensitive felling procedure be implemented to minimise disturbance to bat populations:</p> <p>Where tree felling or lopping is planned, such work should only be carried out between September and February to avoid the bird-breeding season.</p> <p>If the tree trunk is smaller than 200mm diameter and if it has</p>

² Identify International designated site within 2km of the proposals. Consider International sites within 15km of proposals with bats as qualifying features, and 10km with otters as qualifying features if the proposal is likely to affect these features.

		<p>no dense ivy, suitable holes, loose bark, and no holes associated with the root system, work can be carried out on the tree between September and February (<i>i.e.</i> avoiding the bird breeding season).</p> <p>To avoid disturbing nursery roosts, work will <u>never</u> be carried out between June and August inclusive.</p> <p>If the tree does have any of the features listed above or has a trunk size greater than 200mm, it should only be cut <u>only</u> in September and October when bats, including young are still mobile and able to fly-out.</p> <p>Any timber cut should be left lying on the ground for at least 24 hours to allow bats the opportunity to escape.</p> <p>Where the loss of mature trees is unavoidable, compensatory planting with appropriate locally native species, preferably of local provenance, should be undertaken.</p> <p>The southern and western boundary hedgerows could also provide commuting and foraging habitat for bat species. If external lighting is required for this development I recommend that an external lighting scheme sensitive to bats and other nocturnal wildlife, including low-powered and short-timed PIR lighting sensitive to large objects only, is used.</p> <p>A Newt Reasonable Avoidance Method Statement, produced by a suitably qualified and experienced ecologist to demonstrate that the proposed works, including construction activities, will be undertaken in a manner to ensure no negative impacts to GCN and/or their habitats on site needs to be provided before the planning application can be determined.</p> <p>I understand that the southern and western boundary hedgerows are to be retained and new hedgerow and trees planted within the application site, which is welcomed. Locally-occurring, native species will need to be used for this and a Species List will therefore be required for approval by the local planning authority. I also recommend that any mature trees within the retained hedgerows are retained and protected within the development site.</p> <p>It would seem likely that the creation of the new access points would require the removal of sections of hedgerow. I suggest that any removed hedgerow is translocated to areas within the development site instead of buying and planting new stock.</p> <p>I recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing. An ecologist should also check for Hedgehogs immediately in advance of site and</p>
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		<p>vegetation clearance works commencing.</p> <p>As a biodiversity enhancement, I recommend that suitable woodcrete nest boxes for House Sparrows, Starlings, Blue Tits and Great Tits are installed at the site.</p> <p>The close proximity of the Werndryd Local Wildlife Trust reserve and Roadside Verge nature reserve to the road widening element of the proposals (5m) means that they could be at risk of receiving pollution from any site-generated run-off during this work. A pollution prevention plan demonstrating how site-generated pollution will be prevented from entering these sites is therefore required before a planning application can be determined.</p>
Recommended Conditions		<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>Prior to planning permission, a Newt Reasonable Avoidance Method Statement shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.</p> <p><i>Prior to planning permission a Pollution Prevention Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development, a Biodiversity Enhancement Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development a lighting design</i></p>

		<p><i>scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development, a Species List for the Landscape Planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p>Informatives</p> <p>Birds - Wildlife and Countryside Act 1981 (as amended)</p> <p>All nesting birds, their nests, eggs and young are protected by law and it is an offence to:</p> <ul style="list-style-type: none"> intentionally kill, injure or take any wild bird intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built intentionally take or destroy the egg of any wild bird intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird. <p>The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.</p> <p>The applicant is therefore reminded that it is an offence under</p>
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		<p>the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.</p> <p>Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)</p> <p>It is an offence for any person to: Intentionally kill, injure or take any bats. Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not. Under the Habitats Regulations it is an offence to: Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved. The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email enquiries@bats.org.uk</p> <p>Great Crested Newts – Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)</p> <p>Great Crested Newts are known to be present in the vicinity of the proposed development site. The great crested newt is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).</p> <p>It is therefore an offence to: Deliberately capture, injure or kill a great crested newt; Deliberately disturb a great crested newt in such a way as to be likely to significantly affect the local distribution, abundance or the ability of any significant group of great crested newts to survive, breed, rear or nurture their young; Damage or destroy a great crested newt breeding site or</p>
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		resting place; Intentionally or recklessly disturb a great crested newt; or Intentionally or recklessly obstruct access to a breeding site or resting place. If a great crested newt is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. This advice may include that a European protected species licence is sought.
Relevant UDP Policies		SP3 Natural, Historic and Built Heritage ENV 2: Safeguard the Landscape ENV 3: Safeguard Biodiversity and Natural Habitats ENV 6: Sites of Regional and Local Importance ENV 7: Protected Species
Comments on Additional Information		N/A

Second Response

Thank you consulting me with regards to the additional information submitted with regards to planning application P/2017/0172 which concerns an outline application for the erection of two dwellings, a treatment plant and all associated works (all matters reserved).

The additional information submitted concerns a Great Crested Newt Reasonable Avoidance Method Statement and Pollution Prevention – these have been submitted following the consultation response provided by my colleagues at YGC with regards to the application.

I have reviewed the information submitted with regards to the great crested newt reasonable avoidance method statement and pollution prevention plan and consider that the measures and recommendations identified are appropriate and in accordance with National Guidelines. I recommend that implementation and adherence to the measures outlined within these documents is secured through appropriately worded conditions. In addition I recommend the other conditions previously identified in the response provided by YGC are also relevant and should be included should you be minded to approve the application – I have included these conditions in my recommendations below.

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

The measures regarding great crested newts, bats, birds and hedgehogs identified in Appendix 1 of the Reasonable Avoidance Measures Method Statement Report by Jon Sloan Ecological Consultants dated April 2017 shall be adhered to and implemented in full unless otherwise agreed in writing by the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

The Pollution Prevention Measures identified in the Pollution Prevention Plan produced by Garner Southall Partnership dated April 2017 shall be adhered to and implemented in full unless otherwise agreed in writing by the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

Prior to commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

Prior to commencement of development, a Species List for the Landscape Planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

In addition I recommend inclusion of the following Informatives:

Birds - Wildlife and Countryside Act 1981 (as amended)

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

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

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email enquiries@bats.org.uk

Great Crested Newts – Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)

Great Crested Newts are known to be present in the vicinity of the proposed development site. The great crested newt is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

- Deliberately capture, injure or kill a great crested newt;
- Deliberately disturb a great crested newt in such a way as to be likely to significantly affect the local distribution, abundance or the ability of any significant group of great crested newts to survive, breed, rear or nurture their young;
- Damage or destroy a great crested newt breeding site or resting place;
- Intentionally or recklessly disturb a great crested newt; or

- Intentionally or recklessly obstruct access to a breeding site or resting place.

If a great crested newt is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. This advice may include that a European protected species licence is sought.

Representations

A public site notice as erected on the 2nd March, 2017 and a press advertisement issued. To date no public representations have been received in respect of the application.

Planning History

No history on plan viz or historic plans on the site. Two dwellings were given consent under application P/2016/0876 on the land south of the site on the opposite side of the access track.

Principal Planning Constraints

None.

Principal Planning Policies

National planning policy

Planning Policy Wales (Edition 9, 2016)

Technical Advice Note 1 - Joint Housing Land Availability Studies (2015)

Technical Advice Note 6. Planning for Sustainable Rural Communities (2010)

Technical Advice Note 12 Design.

Technical Advice Note 18. Transport (2007)

Technical Advice Note 23 – Economic Development (2014)

Local planning policies

SP2 – Strategic Settlement Hierarchy

SP3 – Natural Historic And Built Environment

SP5 - Housing Development

SP6 – Development and transport.

SP9 – Local Community Services and Facilities

GP1 – Development Control

GP3 – Design and Energy conservation.

GP4 – Highway and Parking Requirements

ENV 1 – Agricultural Land

ENV2 – Safeguarding the landscape

ENV 3 – Safeguarding Biodiversity and Natural Habitats.

HP3 – Housing Land Availability

HP4 – Settlement Development Boundaries and Capabilities

HP5 – Residential Development

HP6 – Dwellings in the open countryside.

CS3 – Additional Demand for community facilities

T2 – Traffic Management
RL6 – Public Rights of Way and Access to the Countryside.
DC8 – Public Water Supply
DC9 – Protection of Water Resources
DC11 – Non-mains Sewage Treatment
DC13 – Surface Water Drainage

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

Officer Appraisal

Introduction:

The application is for outline consent with all matters reserved. Should permission be granted, reserved matters (appearance, landscaping, layout and scale, access) will form a separate application for consideration at a later date.

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Principle of Development

For the purposes of the Powys Unitary Development Plan, the site subject to this application lies within the open countryside and proposes open market dwellings. On this basis, the proposal constitutes a departure from the adopted Powys Unitary Development Plan (2010).

Housing Land Supply

Planning policy (TAN1 and UDP HP3) states that the Council needs to have a five year supply of land available for housing. The Powys Joint Housing Land Availability Study (2016) concludes that there is 2.2 years of housing supply.

Housing supply is a material consideration that should be given considerable weight in the determination of this application. TAN 1 states:

‘The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies’.

Sustainable Development:

Consideration must be given to whether this location is regarded as a sustainable location for new residential development. Although located in the open countryside, the site adjoins the settlement development boundary of Franksbridge (defined as a small village within the UDP). Franksbridge benefits from a school and chapel. The village is located approximately 1.75 kilometres distant from the nearest settlement of Hundred House which has a village hall and a public house. Transport links are also available to access the larger centres of Builth Wells and Llandrindod Wells where a range of services exist. Given the proximity of these facilities, future occupiers would have reasonably good access to existing facilities and services.

Appearance, Layout and Scale

Guidance contained within UDP policy HP5 (Residential Development) indicates that residential development will be permitted where the development is of an appropriate scale, form and design and general character, to reflect the overall character and appearance of the settlement and surrounding area.

Although this application has been submitted in outline (with all matters reserved), an indicative site layout and supporting Planning Statement have been submitted. This indicates two detached dwellings, each with a separate access from the U01019 county highway. The Planning Statement indicates that the dwellings are to be 2 storeys with 3 bedrooms with an approximate size of 154 square metres. An approximate eaves height of between 4.6-4.7 metres and an overall ridge height of between 8.1 and 8.5 metres have been given. The frontage width of each dwelling would be approximately 11 metres with depths of approximately 8 metres.

Existing designs within the settlement of Franksbridge have been considered and there are a mix of single storey and two storey dwellings using a mix of materials including brick, stone and render. Closer to the site in question, the existing school building is a predominantly two storey building in stone with slate roof. The dwelling (Tyn-Wern) located approximately 30 metres distant from the application site in a south-westerly direction is single storey in character with rendered elevations and tiled roof. A scrubby woodland area exists between the proposed application site and Tyn-Wern which provides an existing screen between the two sites.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating two dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

Impact on residential amenity

UDP Policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties will not be unacceptably affected. More specific guidance is set out in the Powys Residential Design Guide.

The application site is bounded to the west by a fence into the school playing fields. To the south across the access track is outline consent for two dwellings – in a position slightly skewed from the proposed, not directly in front. There is plenty of scope for design at reserved matters stage to ensure that impact on neighbours is not going to be a problem.

It is therefore considered that the proposal will not unacceptably adversely affect the amenity of the neighbouring properties and therefore accords with Policy GP1 of the UDP.

Landscape and visual impacts

UDP Policy ENV2 states that proposals should 'take account of the high quality of the landscape throughout Powys and be appropriate and sensitive to the character and surrounding landscape'. It goes on to state that proposals which are acceptable in principle should 'contain appropriate measures to ensure satisfactory integration into the landscape'.

The site occupies an edge of settlement location which adjoins open countryside and therefore the locality is considered to be sensitive to visual change.

In terms of landscaping, the indicative layout indicates that the proposal will retain some hedgerow along the southern boundary of the site with new fencing and hedgerow of native species to be planted along the north and east boundaries. The existing hedgerow between the proposed and the playing fields of Franksbridge school will be retained. The native landscaping will assist in mitigating visual impact in this area. It is noted that landscaping is reserved as a future matter for consideration and therefore detailed proposals would be considered at a later stage.

The site would be visible from the U01019 county highway and right of way; however land rises away from the application site in a southerly direction which would help screen any future development. Whilst the proposal would result in a visual change in comparison to the current agricultural use, taking into account the location on the edge of settlement, it is considered that the proposal is acceptable and in accordance with Policy ENV2 of the UDP.

Highway Safety and movement

UDP policy GP4 confirms that in the interests of highway safety, all development proposals that generate or involve traffic must be provided with an adequate means of access including visibility, parking and turning facilities.

The proposed development will be accessed from the U01019 county highway. Improvements to the road are included within the application, including a slight widening of the highway and the installation of a passing bay.

Consultation with the Highway Authority has confirmed that there are no fundamental objections to the proposal subject to conditions. It is noted that the application is submitted as outline with all matters reserved; therefore the access and highway issues will be considered at reserved matters stage with no highway conditions included at this stage of the process.

Drainage

Percolation test results were submitted with the application. These have been scrutinised by the Environmental Health Officer who states has raised no objection to the proposal.

It is considered that the proposal therefore accords with Policy DC13 of the UDP.

Ecology and Biodiversity

The Council's Ecologist has provided comments with regard to the proposed development.

In light of the consultee responses by NRW, a Reasonable Avoidance Measures Method Statement was submitted in April 2017 by Jon Sloan Ecological Consultants due to the presence of Great Crested Newts having been reported by Radnorshire Wildlife Trust some 20 metres from the site. The Reasonable Avoidance Measures Method Statement states that the development of the site will cause the direct loss of negligible value habitat which is likely to result in a negative impact of negligible significance.

The Council's Ecologist does not object to the proposal subject to a number of conditions being included relating to the compliance with the details set out in the Pollution Prevention Plan and the Reasonable Avoidance Measures Method Statement Report submitted by the applicant, plus more standard conditions relating to conserving wildlife on the site.

It is therefore considered, subject to conditions that the application accords with Policies ENV3 and ENV7 of the UDP.

Welsh Language

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. Technical Advice Note 20: Planning and the Welsh Language provides further advice on how the planning system considers the implications of the Welsh Language. Within the Powys UDP policy GP5 identifies settlements where the Welsh Language is important to the social, cultural and community fabric of the area. Whilst Franksbridge has not been identified as one of these areas it is considered that the Welsh Language is a material consideration across the County.

In the 2011 census the Llanelwedd Ward reported that 13.9% of the population spoke Welsh. This is an increase from the 2001 census which stated that 12.56% of the population of Llanelwedd spoke Welsh. Officers consider that the development of two dwellings in this settlement is not considered to have a detrimental impact on the cultural or linguistic vitality of the area.

Other Legislative Considerations

Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

RECOMMENDATION

Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. Consideration has been given to all material planning matters and it is considered that all issues can be adequately dealt with through the imposition of conditions and through a future reserved matters application. The recommendation is therefore one of conditional approval.

Conditions:

1. Details of the access, layout, appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

2. Any application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out strictly in accordance with the documents: Planning Statement (dated January 2017), 4650/1A proposed site plan, 4620/2A – Proposed site location, 4650/1 Proposed Site Plan, 4650/2, Pollution Prevention Plan (April, 2017), Reasonable Avoidance Measures Method Statement, (April 2017).
5. The measures regarding great crested newts, bats, birds and hedgehogs identified in Appendix 1 of the Reasonable Avoidance Measures Method Statement Report by Jon Sloan Ecological Consultants dated April 2017 shall be adhered to and implemented in full.
6. The Pollution Prevention Measures identified in the Pollution Prevention Plan produced by Garner Southall Partnership dated April 2017 shall be adhered to and implemented in full.
7. Prior to commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
8. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
9. Prior to commencement of development, a Species List for the Landscape Planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.

Reasons

- 1.To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
- 2.Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
- 3.Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
- 4.To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
6. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9,

November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

7. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

8. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

9. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

Informative Notes

Birds - Wildlife and Countryside Act 1981 (as amended)

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

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

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)

It is an offence for any person to:

- Intentionally kill, injure or take any bats.

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

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email enquiries@bats.org.uk

Great Crested Newts – Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)

Great Crested Newts are known to be present in the vicinity of the proposed development site. The great crested newt is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

- Deliberately capture, injure or kill a great crested newt;
- Deliberately disturb a great crested newt in such a way as to be likely to significantly affect the local distribution, abundance or the ability of any significant group of great crested newts to survive, breed, rear or nurture their young;
- Damage or destroy a great crested newt breeding site or resting place;
- Intentionally or recklessly disturb a great crested newt; or
- Intentionally or recklessly obstruct access to a breeding site or resting place.

If a great crested newt is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. This advice may include that a European protected species licence is sought.

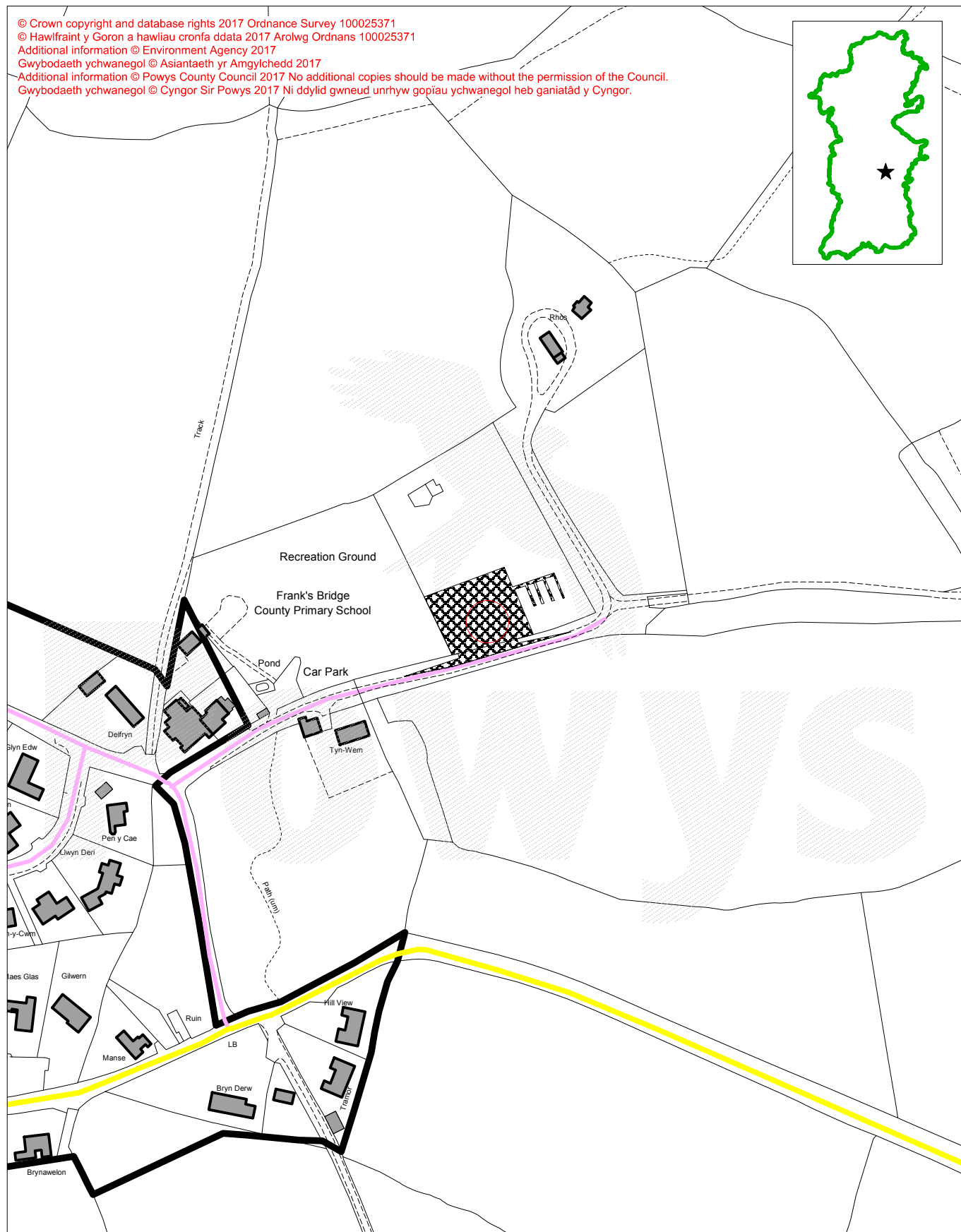
Case Officer: Lorraine Jenkin- Planning Officer
Tel: 01597827527 E-mail: lorraine.jenkin@powys.gov.uk

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Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 20/06/17

Ymweliad â safle a wnaed ar 20/06/17

gan Joanne Burston BSc MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 17.07.2017

Appeal Decision

Hearing Held on 20/06/17

Site visit made on 20/06/17

by Joanne Burston BSc MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 17.07.2017

Appeal Ref: APP/T6850/A/17/3168479

Site address: VLF Building, Criggion Radio Station, Back Lane, Criggion, Welshpool SY5 9BE

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Chris Moore against the decision of Powys County Council.
- The application Ref P/2015/0535, dated 18 May 2015, was refused by notice dated 19 October 2016.
- The development proposed is the change of use conversion of former VLF building to dwelling.

Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Mr Chris Moore against Powys County Council. This application is the subject of a separate Decision.

Procedural Matters

3. I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, 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 decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this decision is consistent with the sustainable development principle as required by section 8 of the WBFG Act.
4. Subsequent to the close of the Hearing the appellant submitted a signed and dated Deed in accordance with Section 106 of the Town and Country Planning Act 1990. I return to this matter later in this decision.

Main Issues

5. The main issues in this case are:

- The effect on flood risk;

- Whether the proposed development would provide acceptable living conditions for future occupiers; and
- Mineral resources.

Reasons

6. Planning Policy Wales, Edition 9 (PPW), Chapter 13, aims to minimise and manage environmental risks and pollution and contains relevant policies on flood risk. Paragraph 13.2.3 expresses the basic principle of the policy *"Meeting the Welsh Government's objectives for sustainable development requires action through the planning system to move away from flood defence and the mitigation of the consequences of new development in areas of flood hazard towards a more positive avoidance of development in areas defined as being of flood hazard"*.
7. The site lies some 300 metres to the west of the River Severn and is at risk of fluvial flooding. It lies within Flood Zone C2 as defined on the Development Advice Maps (DAMs) that accompany the Welsh Government's Technical Advice Note 15, Development and Flood Risk (TAN15). Flood Zone C2 is defined as areas of the floodplain without significant flood defence infrastructure, and TAN15 prescribes that "highly vulnerable development", which includes all residential premises, should not be permitted in such zones. Thus the proposal is contrary to the principles of this national policy.
8. The Appellant has submitted a Flood Consequences Assessment (FCA) to support the application and this has generally been accepted by Natural Resources Wales (NRW). It includes mitigation measures to reduce the effects of flooding should the development go ahead. Measures include raising the finished floor level so that the building would be free from flood in an extreme flood event and that the use of the ground floor would be for a garage and storage only.
9. However, as set out in TAN15, even with adequate mitigation measures in place it may still not be sensible to allow particular development to take place where safe access or egress may be compromised. NRW state that *"the flood depths along the preferred access route could be in excess of 600mm with velocities in excess of 1.5m/s¹. In terms of Flood Hazard Ratings, this would cause a danger for most.... A highly vulnerable development in a flood risk area is contrary to TAN 12 and will rely on able occupants to prepare, operate and maintain a suitable management plan"*.
10. Thus, although raised floor levels and other measures could reduce effects on the dwelling itself, in such an extreme event the house would be surrounded by deep, fast flowing water, in excess of the criteria in TAN15 for property access.
11. The appellant states that flood warnings are provided by NRW for the River Severn at Criggion and due to the size of the catchment there would be sufficient lead times to allow action to be undertaken by the residents of the proposed development to evacuate the area. However, if this was not possible residents would be able to use the building as a safe refuge. This information would be contained in a Flood Emergency Plan and notified to all future occupiers as part of the deeds.

¹ The Appellant's Addendum to FCA Report states that: Mean flood depths along the evacuation route for the 1:100 year+CC and 1:1000 year events are 0.30 m and 0.42 m, while maximum depths are 0.68 m and 0.82 m, respectively. Mean velocities are 0.45 m/s and 0.51 m/s for the 1:100 year+CC and 1:1000 year flood events, while maximum velocities are 1.63 m/s and 1.73 m/s, respectively.

12. I do not doubt the value of Flood Emergency Plans. Although the availability of flood warnings and evacuation plans are one of the considerations to ensure that any new development is safe, these are dependent on human action and compliance. Failings and errors can and do occur including illness, accidents, delayed departure, unexpected and dramatic changes in the conditions and natural personal reluctance to move out rapidly. I am mindful that such events can occur at night, when most people are asleep, and this would make contact and response difficult. The Council also refers to the difficulty of enforcing a flood evacuation plan. Given the predicted speed and depth of future flooding I consider that this would also place residents in considerable danger. The risk that it could present to the emergency services were they obliged to attempt rescue cannot be overlooked. As such I do not consider that flood warnings and evacuation plans on their own, during the period when extreme flood events are more likely would manage flood risk so that the development would remain safe throughout its lifetime.
13. The appellant has made reference to another development close to the appeal site, which has been referred to as 'The Parochial School'. I saw the development on my site visit, which I accept is in close proximity to the watercourse. However, it was clear that the site has a different context to that of the appeal site, being a listed building, and therefore is not directly comparable. In any event, I am mindful that each proposal should be considered on its own merits.
14. Having considered the detailed measures in the FCA and other information submitted by the appellant, I am not satisfied that the proposal fully addresses the flood risk implications of the scheme, and meets the requirements of National Policy in this regard. The proposal is also contrary to the Powys Unitary Development Plan (UDP) Policy SP14 which sets out, amongst other matters, that highly vulnerable development will not be permitted in Zone C2.

Living Conditions

15. The appeal site is located approximately 120 metres to the west of Criggion Quarry, which is a large mineral extraction site, with associated processing facilities and asphalt plant. The planning permission for the quarry permits it to operate 7 days a week, with the only time constraints limiting vehicles over 1 tonne in weight entering or leaving the quarry and on blasting. The quarry and associated operations are set above the appeal site, extracting stone from the hillside. There is therefore significant potential for noise and disturbance from mineral operations and transportation.
16. Technical Advice Note 11: Noise (TAN11) states that "*local planning authorities should consider whether proposals for new noise-sensitive development would be incompatible with existing activities, taking into account the likely level of noise exposure at the time of the application and any increase that may reasonably be expected in the foreseeable future. Such development should not normally be permitted in areas which are, or are expected to become, subject to unacceptably high levels of noise and should not normally be permitted where high levels of noise will continue throughout the night*".
17. UDP Policy GP1 (3) states that, amongst other matters, the amenities enjoyed by the occupants of nearby or proposed properties shall not be unacceptably affected by levels of noise. Moreover, UDP Policy MW22 establishes that all proposals that are likely to be incompatible with the adjacent minerals working will form the subject of rigorous examination.

18. The appellant states, and the Council do not disagree, that the minimum noise attenuation required is 20dB, in order to achieve the recommended internal daytime and night-time noise limits of 35dB and 30dB respectively. From the evidence before me, including the appellant's acoustic reports, the proposed development will comprise 480mm thick solid masonry walls, lined internally with insulation and plasterboard. Furthermore, the glazing units on the rear elevation will be non-opening. Given these mitigating measures I am satisfied that the building would achieve acceptable internal daytime and night-time noise level limits, thus making it suitable for residential occupation.
19. Nonetheless, the proposed development also benefits from a large area of outdoor living space, both to the front and rear of the property. The noise measurements taken by both the appellant and the Council highlight, by reference to table 4.1 in 'World Health Organisation guidelines for Community Noise in specific environments' that at certain hours of the day and night the range of noise would be in excess of 50dB LAeq and 55dB LAeq thus causing respectively moderate annoyance and serious annoyance.
20. Moreover, whilst the Quarry operator had confirmed that the day of the survey was 'typical', quarry operations can vary from day to day and a noise survey limited to only one day does not provide a convincing picture of the noise emanating from the quarry. Additionally, as I was told at the Hearing, the mineral extraction operations are phased to move closer to the appeal site, which will impact on the noise environment hereabouts.
21. I accept that limiting the extent of the residential curtilage to include only the front garden, through a Section 106 Agreement, would reduce noise disturbance to a degree. However, I remain concerned that given the proximity of the quarry to the proposed development and that noise from quarry operations would be difficult to mitigate, the living conditions of future occupiers would be significantly affected.
22. Therefore, based upon the evidence before me, it has not been demonstrated that the proposed mitigation measures overcome the significant risk of noise and disturbance to future occupiers of the proposed development arising from the neighbouring quarry activities. The proposed development is therefore contrary to the Powys Unitary Development Plan (UDP) Policies GP1 and MW22.

Mineral resources

23. Criggion Quarry produces high polished stone value dolerite, one of only a handful of sites in the country. The stone is mainly used in the road construction industry as an anti-skid top dressing. The quarry is an important producer both locally and nationally. Minerals Technical Advice Note 1: Aggregates 2004 (MTAN1) establishes at paragraph 31 that *"Wales has a plentiful supply of hard rock resources but it is still a fundamental objective to conserve natural resources for their intrinsic qualities and possibly for future generations to exploit, particularly those in relatively short supply. These include resources suitable for use as road surfacing materials with high skid resistance."*
24. In order to ensure that the hard rock supply in Powys is not prejudiced by the introduction of new uses in close proximity to existing quarries UDP Policy MW22 states that a 'buffer zone' should be established for all authorised mineral workings with an expected life of five years or more. The appeal site is situated within the buffer zone of Criggion Quarry.

25. Chapter 14 of PPW states at paragraph 14.4.1 that *"there is often conflict between mineral workings and other land uses as a result of the environmental impact of noise and dust from mineral extraction and processing and vibration from blasting operations. Buffer zones have been used by mineral planning authorities for some time to provide areas of protection around permitted and proposed mineral workings where new development which would be sensitive to adverse impact, including residential areas, hospitals and schools, should be resisted. Within the buffer zone there should be no new mineral extraction or new sensitive development, except where the site of the new development in relation to the mineral operation would be located within or on the far side of an existing built up area which already encroaches into the buffer zone. Other development, including industry, offices and some ancillary development related to the mineral working, which are less sensitive to impact from mineral operations may be acceptable within the buffer zone."* This advice is also reiterated in Minerals Technical Advice Note 1: Aggregates 2004 (MTAN1).
26. If granted planning permission, it would be likely that the appeal property would remain in residential use for a long time. It is difficult to foresee the long term economic demand for, and supply of, crushed rock, and so current operations at the quarry are not much help in predicting the likelihood that extraction and associated activities may or may not increase in the future. What is relevant in this case is that it is a known mineral resource, which might be needed. Moreover, I consider that it is a mineral resource that should be safeguarded, and that reasonable measures to prevent its sterilisation would be justified.
27. Whilst the economic argument might not be convincing, I do not underestimate the pressure that future occupiers of a new dwelling could bring on the quarry, by complaints and other action, to restrict operations that they perceived had an unacceptable adverse effect on their living conditions. This could also effectively sterilise the mineral resource.
28. Taking into account the separation distance and the nature of the quarrying operation, I consider that a change of use to residential could result in the unnecessary sterilisation of a potentially useful mineral resource. Therefore the proposal would be contrary to UDP Policy MW22, MTAN1 and PPW as set out above.

Other matters

29. The appeal building has an interesting history as part of the military command, control and communication system from the Second World War onwards. In a letter, dated 29 May 2015, Cadw provide a draft description, setting out its preliminary assessment for the building (Doc 05). The draft description provides for a grade II listing, *"included for its special architectural interest as part of a rare surviving example of a military radio station... The site at Criggion is unique in Wales and is one of only a small number of such stations within the UK."*
30. The historic importance of the building is acknowledged, however it has not yet been listed. Therefore whilst the appeal proposal may provide long term security for the building, I have no evidence that the building is at risk or that the appeal proposal is the only solution to secure its future. Therefore, this matter does not outweigh my concerns set out above.
31. The provision of a planning obligation to control the use of the land to the rear of the appeal building was discussed at the Hearing. Subsequently a completed Deed dated 28 June 2017 was submitted. However, for the reasons outlined above, such

provision would not outweigh my concerns in relation to the appeal scheme. Thus, the Deed has had little bearing upon my decision.

32. I was referred to other rural properties which have been granted permission for residential and commercial uses. However, much depends on the particular circumstances in each case. There is nothing to indicate that these properties are directly comparable to the circumstances that apply in the appeal before me.

Conclusion

33. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be dismissed.

Joanne Burston

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr R Lewis	Agent, Hughes Architects
Mr C Moore	Appellant
Mr A Paddison	Consultant
Mr P Keeling	Managing Director, The Studio People
Mr C Smout	Consultant, The Studio People

FOR THE COUNCIL:

Ms T Law	Principal Planning Officer, Powys County Borough Council
Mr C Jones	Senior Environmental Health Officer, Powys County Borough Council
Mr G Nancarrow	Manager (Minerals and Waste), Flintshire County Council

DOCUMENTS SUBMITTED DURING THE HEARING

Doc 01	Notification Letter, submitted on behalf of the Council.
Doc 02	Application for Costs, submitted by the appellant.
Doc 03	Committee Report, ref: P/2015/1085, submitted by the appellant.
Doc 04	Flood Risk Maps for P/2015/1085 site, submitted by the appellant.
Doc 05	Letter from Cadw, dated 29 May 2015, submitted by the appellant.

Penderfyniad ar gostau

Gwrandawriad a gynhaliwyd ar 20/06/17

Ymweliad â safle a wnaed ar 20/06/17

gan Joanne Burston BSc MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 17.07.2017

Costs Decision

Hearing Held on 20/06/17

Site visit made on 20/06/17

by Joanne Burston BSc MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 17.07.2017

Costs application in relation to Appeal Ref: APP/T6850/A/17/3168479

Site address: VLF Building, Criggion Radio Station, Back Lane, Criggion, Welshpool SY5 9BE

The Welsh Ministers have transferred the authority to decide this application for costs to me as the appointed Inspector.

- The application is made under the Town and Country Planning Act 1990, section 78, section 322C and Schedule 6.
 - The application is made by Mr Chris Moore for a full award of costs against Powys County Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the change of use conversion of former VLF building to dwelling.
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Decision

1. The application for an award of costs is refused.

Procedural Matter

2. New and updated guidance has been published for 'Awards of Costs' and is included as an annex to the 'Development Management Manual' at Section 12. The guidance revokes and replaces existing Welsh Office Circular 23/93: Awards of Costs incurred in Planning and Other (Including Compulsory Purchase Order) Proceedings ("the Circular") and takes immediate effect. However, applications which have been received by local planning authorities before 5 May 2017 and which are appealed against or called in by the Welsh Ministers will continue to be determined in accordance with the previous procedure rules and regulations. Accordingly, the procedure outlined in Circular 23/93 remains relevant.

The submissions for Mr Chris Moore

3. The application and final comments were made in writing.

The response by Powys County Council

4. The response was provided in writing.

Reasons

5. Circular 23/93 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
6. Consideration of planning applications and appeals involves matters of judgement which at times are finely balanced. Paragraph 8 of Annex 3 to Circular 23/93 makes it clear that in any appeal proceedings, the Local Planning Authority will be expected to produce evidence to substantiate each reason for refusal by reference to the development plan and all other material considerations. Furthermore, unreasonable behaviour also includes introducing new evidence or relevant information late in the proceedings where it is clear that this could have been provided earlier in the process, or at the application stage.
7. The Council's first reason for refusal related to flood risk and was supported by evidence both written and oral. I was persuaded that the Council's stance was appropriate and reasonable, and based on local and national planning policies. Each case must be decided on its individual merits, and the Council was not unreasonable in the way it considered the comments received from Natural Resources Wales, against the weight attributed to national and local policies relating to flood risk; the Council's stance in this regard was therefore a matter of planning balance as set out in paragraph 8 of Annex 3 to Circular 23/93.
8. Turning to the second reason for refusal. The proposal was discussed with a range of Council officers and other consultees over an extended period. From the evidence before me much of the discussion centred on the impact of noise from the nearby quarry. It is not unusual for advice to be sought from appropriately qualified staff and experienced in-house experts or professional consultants. In the discussions advice was provided by the Council's Environmental Health Officer (EHO).
9. Both during the application determination and at the Hearing there was much debate about the most appropriate method to assess the noise environment. Although it may have been confusing for the appellant to have received inconsistent advice, it was incumbent on the appellant to demonstrate that the proposal was acceptable. Nevertheless, it was evident that the EHO voiced his concerns regarding the application at every stage; indeed the additional survey work undertaken by the EHO supported his stance and did not introduce substantive new matters on noise issues.
10. In any event, for a claim to succeed, it must be clearly demonstrated how such behaviour has also resulted in unnecessary and wasted expense. I am not persuaded the Council's behaviour made any difference in respect of the appellant's need to lodge an appeal and produce evidence at the Hearing given the Council's various other substantive concerns, and given that the appellant wished to pursue this particular scheme.
11. The Council did not disagree with the appellant that the Criggion Quarry Review of Old Mineral Permission (ROMP) survey showed that the quarry was exceeding its noise limits at the time of the survey. Nevertheless, that is a matter for the Council to enforce. Additionally, the ROMP condition relating to noise specifies "any noise sensitive property", rather than any particular ownership, a matter which the appellant was aware of. Again it was incumbent on the appellant to demonstrate that the proposal was acceptable in terms of the living conditions of any future occupiers.
12. Accordingly, with regard to the Council's second reason for refusal, the Council was able to demonstrate planning grounds for concluding the proposals were contrary to

the relevant local and national planning policies, in the terms of their own planning judgement.

13. The third reason for refusal related to the impact of the proposal on the mineral operations at Criggion Quarry. The concept of 'safeguarding' and Buffer Zones are established through local and national policies and guidance. The Council had concerns about the effect of the proposal on the ability of the operator to continue extracting the mineral and sensitive new development in the Buffer Zone which are set out in its delegated report and grounds for refusal, and further elaborated in its Statement of Case. The Council took the view that the scheme conflicted with the relevant policies and was able to produce evidence to substantiate this reason for refusal. The Council had legitimate concerns that the development could effectively sterilise the mineral resource, this approach does not amount to unreasonable behaviour.
14. As such, the matter is one of disagreement between the parties which could have only been resolved at appeal and therefore the appellant has not been put to unnecessary or wasted expense. Consequently the application for an award of costs against the Council is refused.

Conclusion

15. I acknowledge the appellant's frustration and I agree that the some aspects of the Council's behaviour may be open to criticism. However, overall, I find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 23/93, has not been demonstrated and that no award of costs is justified in this case.

Joanne Burston

INSPECTOR

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 03/07/17

gan Siân Worden BA MCD DipLH
MRTPI

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 21.07.2017

Appeal Decision

Site visit made on 03/07/17

by Siân Worden BA MCD DipLH MRTPI

an Inspector appointed by the Welsh Ministers
Date: 21.07.2017

Appeal Ref: APP/T6850/D/17/3177535

**Site address: Land adjacent to 26 Palleg Road, Lower Cwmtwrch, Swansea
SA9 2QE**

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr B Stone against the decision of Powys County Council.
 - The application Ref P/2017/0330, dated 24 March 2017, was refused by notice dated 18 May 2017.
 - The development proposed is vehicle access.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider that the main issues in this case are the effect of the proposed development on:
 - highway safety in respect of visibility for drivers using the site; and on
 - the character and appearance of the surrounding area, particularly with regard to its location, form and design.

Reasons

Highway safety

3. The appeal site is alongside a minor road leading out of the small settlement of Lower Cwmtwrch into the open countryside and also to a waste site. In its lower reaches there are dwellings to either side of the lane but as it climbs, development becomes dispersed. The appellant states that the proposed access is needed to provide space for parking a vehicle off the highway. The access point would be 4m wide with a small area of hardstanding behind sufficient to park a single vehicle. It would be likely to be used only once a week.
4. The proposed vehicle access would be located in the wide, undeveloped gap between Nos. 26 and 30; it would be in the grounds of No. 32 which wrap around No. 30. At this point the eastern boundary of the lane is marked by a narrow, over-grown verge

and a tall, unruly and dense hedge. Opposite is the entrance to a dwelling and its outbuildings.

5. The submitted plan is rudimentary and does not demonstrate that the necessary visibility splays could be provided to either side of the proposed access point. Whilst a 45m distance might be achieved to the north that would not be possible to the south. In the latter direction, the line of sight would be across land not owned by the appellant. Being beyond his control, he would not have any ability to keep the land, and view, clear from obstruction. In this location the lane widens; I saw that traffic travelling down towards Lower Cwmtwrch does not curve in to the edge of the carriageway but follows the centre of the lane. To my mind, however, this does not significantly or reliably improve visibility at the proposed access point.
6. The lane is moderately quiet but several of the vehicles using it are heavy wagons. Three passed whilst I was visiting the site, a period of no more than 30 minutes; coming downhill they travel at some speed¹. In addition, I am not confident that the size of the parking space would enable a vehicle to turn around within it. Either reversing in or, particularly, reversing out in a location with reduced visibility would entail some hazard and a risk to the safety of highway users.
7. The advice in TAN18 *Transport*² is that a minimum X distance of 2m may be considered in some very lightly trafficked and slow speed situations. Notwithstanding the greater width of the lane at this point, the prevailing traffic conditions do not accord with either of these criteria. Reduced visibility splays are not therefore justified. There would not be adequate provision for highway access, including visibility and turning, and the parking area would not be well designed in terms of safety. The proposed development would thus be contrary to Policy GP4 of the Powys Unitary Development Plan 2001-2016 (UDP), adopted March 2010.

Character and appearance

8. Little information has been provided in terms of the design and appearance of the proposed vehicle access and hardstanding. The houses along the lane have driveways and parking areas in various styles. The proposed development would not, however, be adjacent to a dwelling but uncharacteristically isolated in a section of the lane which, on its eastern side, is undeveloped and leafy. Furthermore, part of the existing hedge and verge would have to be removed, harming the verdant and countryside appearance of the lane in this location. Although a standard farm gate is proposed, the parking area adjacent to it, which would be particularly apparent when in use, would not be typically rural. The design, layout and size of the proposed development would not complement or enhance the character of the surrounding area, contrary to UDP Policy GP1.

Other matters

9. I have taken all the matters raised, including the 30mph speed limit, the width of the lane, the lack of footways, the limited use intended for the proposed development, and the small number of destinations further along Palleg Road, into account but not found any which would outweigh the harm caused. Neither the fact that visibility splays at existing properties are below standards, nor the absence of accident records,

¹ I have noted that the refuse tip, which they may be coming from, is due to close in a few years.

² TAN18 Annex B, paragraph B.6

are compelling reasons to permit a development which would be detrimental to highway safety.

Conclusion

10. The proposed development would harm both highway safety and the character and appearance of the surrounding area.
11. For the reasons given above I conclude that the appeal should be dismissed.
12. In coming to this conclusion, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

Siân Worden

Inspector

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol