

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: P/2017/0670

Grid Ref: 316158.50
292849.37

Community Council: Llandyssil

Valid Date: 13/06/2017
Officer: Rachel Mulholland

Applicant: Mr & Mrs Bebb, Waen, Llanmerewig, Abermule, Montgomery, Powys, SY15 6NR.

Location: Land adjacent to Nant Y Waen, Abermule, SY15 6NR.

Proposal: Erection of two dwellings and installation of sewerage treatment plant (with some matters reserved)

Application Type: Application for Outline 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 and is recommended for approval.

Site Location and Description

The application site lies within the rural settlement of Llanmerewig approximately 1.6 km south of Abermule. The site is to be accessed by a private track which connects to the county highway (C2058) approximately 35 metres to the south. The nearest neighbouring residential property is located approximately 8 metres to the south east. The site has neighbouring dwellings to the southeast and southwest with agricultural fields surrounding.

This application represents a departure from the current Unitary Development Plan and seeks outline consent for the erection of 2 dwellings with garages and the installation of a sewerage treatment plant. This outline application considers access only as part of this application all other matters are reserved. An indicative layout of the site and scale of the dwellings proposed are given.

Consultee Response

Abermule with Llandyssil Community Council

No comments received by Development Management at the time of writing this report.

PCC - Highways

Correspondence received 27th July 2017

The County Council as Highway Authority for the County Class III Highway, C2058

Wish the following recommendations/Observations be applied

Recommendations/Observations

- HC1 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.
- 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 43 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.
- HC8 Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom excluding any garage space provided and 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 Prior to 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 0.4 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.

In the interests of highway safety.

PCC – Building Control

Correspondence received 22nd June 2017

Please be aware that the proposed development will require Building Regulations approval.

PCC – Environmental Health

Correspondence received 22nd June 2017

Environmental Protection has no objection to this application, subject to NRW consent/exemption for the sewage treatment plant discharge.

PCC – Land Drainage

Correspondence received 27th July 2017

Thanks for consulting the Lead Local Flood Authority regarding this application.

Land Drainage/Flood Risk

Comment: The Authority holds no historical flooding information relating to this site.

Surface Water Drainage

Observation: Reference to the management of surface water run-off is indicated under Item 13 – ‘Assessment of Flood Risk’ on the planning application form, where it states surface water is to be disposed to soakaways. Further mention is made in the Design & Statement (Water) where it states that surface water will drain to site soakaway trenches and the use of water butts.

No further surface water drainage details/drawings have been submitted.

Comments: The site is classed as Greenfield. Therefore, proposed surface water flows should be equivalent to existing Greenfield run-off in accordance with the principles of TAN15 – *Development and Flood Risk* and good practice drainage design.

The general soil type for the site location is described as being ‘slowly permeable seasonally wet acid loamy and clayey soils’. Soakage in this type of soil structure may be difficult to achieve and therefore winter waterlogging will more than likely result in very wet ground conditions across the site.

The Welsh Government has recently published interim (non statutory) national standards on Sustainable Drainage Systems (SuDS). These standards set out the hierarchy for SuDS and the minimum design criteria on the design, construction, operation and maintenance of such systems serving new developments in urban or rural areas. A copy of the standards and guidance can be downloaded from Welsh Government’s website at <http://gov.wales/topics/environmentcountryside/epq/flooding/drainage/?lang=en>.

The LLFA recommends that the surface water design for this development proposal follow and incorporate Welsh Government’s SuDS design standards.

Recommendation: No development shall commence until a scheme for the surface water drainage of the site has been submitted to and approved in writing by the local planning authority. The design for the scheme shall follow the principles set out in Welsh Government’s sustainable drainage (SuDS) standard. The approved scheme shall be completed before any dwellings are occupied.

Reason: To ensure that the proposed drainage systems for the site follow best practice sustainable drainage designs and are fully compliant with regulations and are of robust design.

PCC – Ecologist

Correspondence received 11th July 2017

Thank you for consulting me with regards to planning application P/2017/0670 which concerns the outline application for the erection of two dwellings and installation of sewerage treatment plant (with some matters reserved) at Land Adjacent to Nant Y Waen, Abermule, Montgomery.

I have reviewed the proposed plans as well as local records of protected and priority species and designated sites within 500m of the proposed development. The data search identified 56 records of protected and priority species within 500m of the proposed development - no records were for the site itself.

There are no statutory designated sites within 500m of the proposed development.

There is one non-statutory designated site within 500m of the proposed development:

- Local Wildlife Trust Nature Reserve – Llanmerewig Glebe

Having reviewed the location and nature of the proposed development in relation to the Local Wildlife Trust Reserve (LWTR) it is considered that the proposed development would not result in a negative impact to the LWTR or its associated features.

The site of the proposed development appears to be an area of improved grassland which is a habitat of low ecological value. However, the site has a boundary which appears to be of mature trees which are considered to be of high ecological value – including as linear habitats which is a Powys LBAP habitat. I note from the Design and Access plan:

trees around the edge of the site to be retained

Given the proximity of development works to surrounding trees and hedgerows, it is considered prudent to require information from the applicant as to how these features of biodiversity importance will be protected during the construction period of works.

The UDP policies ENV2 and ENV6 identify the need to protect or provide compensation for impacts to hedgerows and trees. UDP Policy ENV2 states that:

‘Proposals which are acceptable in principal should:

3. Seek to conserve native woodlands, trees and hedgerows’

UDP Policy ENV6: Sites of Regional and Local Importance, makes reference to Powys LBAP habitats and species which include hedgerows under the Linear Habitats Action Plan – ‘Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value’. Hedgerows are also listed as a "habitat of principal importance for the purposes of conserving biodiversity" as identified in on Section 7 of the Environment (Wales) Act 2016, and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi.

Where impacts to hedgerows are identified an appropriate compensation strategy will be required, where possible translocation of the existing hedgerow should be considered, if this is not considered possible at this location replacement hedgerow planting would need to be identified.

Where it is necessary to remove any trees or hedgerows a Tree and Hedgerow Replacement and Protection Plan will need to be secured through an appropriately worded condition. This plan will need to identify appropriate compensation planting for the loss of any trees or hedgerow – details of the location, length and species as well as an appropriate aftercare scheme will need to be identified – species used will need to be native and reflect the hedgerows present in the local area.

Bat tree-roosts are extremely difficult to identify, and it should be assumed that any mature native-species tree is an actual roost.

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 *Conservation of Habitats and Species Regulations 2010*.

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:

- (1) *deliberately capture, injure or kill any wild animal of a European protected species;*
- (2) *deliberately disturb animals of any such species. Disturbance of animals includes in particular any disturbance which is likely—*
 - (a) *to impair their ability—*
 - (i) *to survive, to breed or reproduce, or to rear or nurture their young;*
 - or
 - (ii) *in the case of animals of a hibernating or migratory species, to hibernate or migrate; or*
 - (b) *to affect significantly the local distribution or abundance of the species to which they belong*
- (3) *deliberately take or destroy the eggs of such an animal; or*
- (4) *damage or destroy a breeding site or resting place of such an animal (including sites that are currently unoccupied).*

Furthermore that 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.

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.

As a precaution it is recommended that the following sensitive felling procedure be implemented to minimise disturbance to bat populations.

Where tree felling or lopping is planned, such work should only be carried out between September and February to avoid the bird-breeding season.

If the tree trunk is smaller than 200mm diameter and if it has 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 (ie avoiding the bird breeding season).

To avoid disturbing nursery roosts, work will never be carried out between June and August inclusive.

If the tree does have any of the features listed above or has a trunk size greater than 200mm, it should only be cut only in September and October when bats, including young are still mobile and able to fly-out.

Any timber cut should be left lying on the ground for at least 24 hours to allow bats the opportunity to escape.

Where the loss of mature trees is unavoidable, compensatory planting with appropriate locally native species, preferably of local provenance, should be undertaken.

Careful consideration will need to be given to any external lighting design provided through the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area. It is therefore recommended that a Wildlife Sensitive Lighting Plan is secured through an appropriately worded condition. I note from the Design and access statement:

Additional native and hedge planning is proposed

If it is proposed to provide landscaping as part of the potential development consideration should be given to the development of a native landscape planting scheme. It is recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules.

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

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 Part 1 Section 6 of the Environment (Wales) Act.

Prior to the commencement of development a detailed lighting design scheme to take into account any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval 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, ENV3 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.

Prior to the commencement of development a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition.

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 Part 1 Section 6 of the Environment (Wales) Act 2016.

Should you be minded to approve the application I recommend inclusion of the following informatives:

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 0345 1300 228 or email enquiries@bats.org.uk

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.

Cadw

Correspondence received 5th July 2017

Thank you for your letter of 15 June 2017 inviting our comments on the additional information submitted for the above planning application.

Advice

Having carefully considered the information provided with the planning application, our records show that there are no scheduled monuments or registered historic parks and gardens within the vicinity of the proposed development. We therefore have no comments to make on the proposed development.

Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site. We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority.

It is for the local planning authority to weigh our assessment against all the other material considerations in determining whether to approve planning permission.

National Policy

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), technical advice notes and circular guidance.

PPW explains that the conservation of archaeological remains is a material consideration in determining a planning application, whether those remains are a scheduled monument or

not. Where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting.

Paragraph 17 of Circular 60/96, Planning and the Historic Environment: Archaeology, elaborates by explaining that there is a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of visible remains. PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, and that the effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application.

Clwyd Powys Archaeological Trust

Correspondence received 19th June 2017

Thank you for the consultation on this application.

I write to confirm that there are no archaeological implications for the proposed development at this location.

Natural Resources Wales

Correspondence received 23rd June 2017

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 19/06/2017.

NRW does not object to the proposal. In our opinion, as explained below, the proposal is not likely to adversely affect any of the interests listed.

Protected Species

Bats and their roosts are protected under the Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended). We advise that you should consult your internal ecologist with regards to the potential impact of the proposed development on the favourable conservation status of the populations of bats.

If any mature trees will need to be felled as part of the scheme. All trees that need to be felled should be checked for features that may be used by bats (i.e. cavities, cracks, holes & ivy cover). Where impacts on bats are considered likely, then those trees should be subject to emergence surveys at an appropriate time of year.

Should bats be found to be using the trees as roosting sites then we would expect you to propose and deliver appropriate mitigation and/or compensation schemes, along with

Reasonable Avoidance Measures, to ensure the favourable conservation status of the species is maintained.

Our comments above only relate specifically to matters that are included on our checklist “Natural Resources Wales and Planning Consultations” (March 2015) which is published on our website: <https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>. We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance.

The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

Public Response

Following display of a site notice and publicity in the local press one phone call was received objecting to the development and the individual was advised to submit a written representation; however, no written representations have been received.

Planning History

None.

Principal Planning Constraints

None.

Principal Planning Policies

National Policies

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) 6 – Planning for Sustainable Rural Communities (2010)

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

Technical Advice Note (TAN) 18 – Transport (2007)

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

Welsh Office Circular 13/97 - Planning Obligations

Welsh Office Circular 10/99 - Planning requirements in respect of the use of non-mains sewerage incorporating septic tanks in new development

Local Policies

Powys Unitary Development Plan 2010

SP2 – Strategic Settlement Hierarchy
SP4 – Economic and Employment Developments
SP5 – Housing Developments
SP6 – Development and Transport
GP1 – Development Control
GP2 – Planning Obligations
GP3 – Design and Energy Conservation
GP4 – Highway and Parking Requirements
GP5- Welsh Language and Culture
ENV2 – Safeguarding the Landscape
ENV3 – Safeguarding Biodiversity and Natural Habitats
ENV7 – Protected Species
HP3 - Housing Land Availability
HP4 - Settlement Development Boundaries and Capacities
HP5 - Residential Development
HP6 - Dwellings in the Open Countryside
HP8 - Affordable Housing Adjoining Settlements with Development Boundaries
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

The application site lies outside of any development boundaries identified in the Powys Unitary Development Plan (2010) and is within the rural settlement of Llanmerewig. Outside of settlement boundaries, UDP Policy HP4 applies and states that '*outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9*'. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the

proposed development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered a departure.

Housing Land Supply

The departure is being justified by the applicant on the basis that Powys County Council does not have a 5 year housing land supply.

Paragraph 9.2.3 of Planning Policy Wales states that '*Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.*'

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

"The housing land supply 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".

Whilst TAN 1 confirms that the need to increase housing land supply should be given considerable weight, it is emphasised that this is only where the development would otherwise comply with development plan and national planning policies. Therefore, all material planning considerations are required to be taken into account as are all relevant national and local planning policies and balanced with the undersupply of housing land currently available in Powys.

Sustainability

When providing additional housing it is important to consider whether the scheme can be considered to be sustainable development. This can relate to a wide range of matters including public transport provision and access to education, employment opportunities and other services.

Llanmerewig is a rural settlement approximately 1 mile south of Abermule which is identified in the UDP as a key settlement. Abermule is served by a range of community services and facilities including a primary school, village shop, community centre and two public houses. It is also easily accessible by public transport with regular bus services to Llanidloes, Montgomery, Newtown, Rhayader, Shrewsbury and Welshpool. The application site is located approximately 4 miles from Newtown and 7 miles from Montgomery.

In light of the range of services located within a short 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 within an existing rural settlement. Therefore, the proposed site is considered to be a sustainable 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.

Whilst scale, appearance, layout and landscaping are reserved matters not to be considered as part of this application process, the applicant has provided an indicative layout for the site and stated that the two dwellings proposed are to be detached two storey dwellings with three bedrooms each.

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.

Amenity

Policy GP1 of the Powys Unitary Development Plan states that the amenities enjoyed by the occupants of nearby neighbouring properties should not be unacceptably affected by development proposals and the proposal should complement and where possible enhance the character of the surrounding area.

The site layout is a reserved matter and not to be determined at this stage; however, the indicative site layout plan indicates that the dwelling to the southeast of the proposed site would be located approximately 8 metres distant from the nearest neighbouring residential property known as Nant Y Waen. Although this is a relatively short distance this is the distance to the neighbouring property's attached garage, the indicative layout also shows that the dwelling is at an offset angle and it is considered that there is sufficient distance between the existing property and the proposed dwellings as to not have a significant adverse impact upon the amenities enjoyed by the occupants of this neighbouring property.

This layout is for indicative purposes only and the layout of the site could be altered to increase the distances between the properties if deemed necessary at any reserved matters application stage. The indicative layout is considered to be appropriate and would comply with policy GP1 and GP3 of the Powys Unitary Development Plan 2010.

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.

In terms of landscaping the submission includes the retention of the existing trees around the edge of the site and proposes additional native species tree and hedgerow planting. Landscaping is a reserved matter and therefore detailed proposals would be considered at a later date.

Whilst the site would be visible from public vantage points including the public highway and the proposal would result in a visual change in comparison to the current agricultural use, taking into account the location opposite and adjacent to existing dwellings within the settlement, that landscaping measures would reduce the visual impact and that the proposed scale of two dwellings, it is considered that a satisfactory detailed design could come forward to reflect the overall character and appearance of the settlement and surrounding area.

In light of the above, it is considered that the proposed development complies with policy ENV2 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. Access to the site would be gained off the C2058 via an existing access.

The Highway Authority have been consulted on this application and have raised no objections to the development subject to the suggested conditions listed above regarding entrance gates, parking provision and access construction methods and materials.

In light of the Highway Officer's comments, and subject to the suggested conditions, it is considered that the proposed dwellings fundamentally comply with Policy GP4 of the Powys Unitary Development Plan 2010.

Ecology

No ecological information has been submitted with the application; however, the Powys Ecologist has been consulted on the development and has provided the above comments. No objection has been raised to the scheme subject to the inclusion of conditions securing the submission of a Tree and Hedgerow Protection Plan, a detailed lighting design scheme and a detailed landscaping scheme.

It is noted that landscaping is a reserved matter and, as such, these details will be considered at a later stage. It is, therefore, not necessary to condition the submission of a detailed landscaping scheme on this application.

It is considered that, in light of the Ecologist's comments and subject to the inclusion of the suggested conditions on lighting and hedgerow protection, the proposed development fundamentally complies with policies ENV7 of the Powys Unitary Development Plan (2010) and Technical Advice Note (TAN) 5 Nature Conservation and Planning (2009).

Foul Drainage

Given the location of the site, it is accepted that it is not feasible for the proposed dwelling to connect to the public foul sewerage system. As such, it is proposed to dispose of foul sewage via a sewage treatment plant. The Council's Environmental Health Department have been consulted on this application and have no objections to this. It is also considered that the detail of the proposed system can be appropriately managed through the submission of additional details at reserved matters stage and, on this basis, it is considered that the proposal is in compliance with the UDP Policy DC11.

Surface Water Drainage

Policy DC13 of the Powys Unitary Development plan seeks to ensure that development proposals should provide adequate provisions for land drainage and surface water disposal. Development should not give rise to unacceptable on or off site flooding.

In respect of surface water disposal, the submission indicates that this would be disposed of through the use of soakaways. No further drainage details or drawings have been submitted. As part of this application process the Council's Land Drainage Officer has been consulted. We have received comments in response which considers flood risk and surface water potential arising from the proposed development. No historic flooding information relating to the site is held by the authority and no further concerns have been raised by the officer in this respect. The proposed soakaway system for surface water runoff is noted by the land drainage officer and further details in the form of a drainage scheme have been sought by the inclusion of a condition upon any grant of consent.

Officers consider that subject to the suggested condition the proposed development fundamentally complies with policy DC13 of the Powys Unitary Development Plan 2010 in respect of surface water drainage.

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 neither Llanmerewig nor Abermule are 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 Dolforwyn Ward reported that 13.9% of the population spoke Welsh. This is a slight decrease from the 2001 census which stated that 14.2% of the population of Dolforwyn spoke Welsh. 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.

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

Subject to future consideration of the design and the implementation of landscaping measures, it is considered that the proposal would not result in an unacceptable adverse impact upon the surrounding landscape or public vantage points or the amenities enjoyed by the occupants of neighbouring properties. In addition, subject to the use of conditions, the proposal would make adequate provision for surface water flood risk and drainage, highway access and parking.

Whilst the proposal is a departure from the development plan, the Council's current lack of housing land supply carries considerable weight in favour of this development and given that the proposal would otherwise comply with development plan and national planning policies, the recommendation is one of conditional consent.

Conditions:

1. Details of the appearance, landscaping, layout, 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 plans stamped as approved on XXXX in so far as the extent of the application site is drawn.
5. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to and agreed in writing by the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.
6. Prior to the first use of any external lighting a detailed lighting design scheme to take into account any impacts on nocturnal wildlife shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented as approved and maintained thereafter.
7. 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.
8. 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 43 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.
9. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom excluding any garage space provided and 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.

10. Prior to 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 0.4 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.
11. Prior to commencement of development a scheme for the surface water drainage of the site shall be submitted to and agreed in writing by the Local Planning Authority. The design for the scheme shall follow the principles set out in Welsh Government's sustainable drainage (SuDS) standard. The approved scheme shall be completed prior to the first occupation of any dwelling and retained 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, 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 Part 1 Section 6 of the Environment (Wales) Act.
6. To comply with Powys County Council's UDP Policies SP3, ENV3 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.
7. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
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. To ensure that the proposed drainage systems for the site follow best practice sustainable drainage designs and are fully compliant with regulations and are of robust design.

Informative Notes

A Building regulations application may be required for this development, please contact Building Regulations on 01874 612290.

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.

Signed:.....
Rachel Mulholland Planning Officer

Date:

Signed:.....
Principal Planning Officer

Date: