

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2017/0574	Grid Ref:	327624.53, 311465.74
Community Council:	Trewern	Valid Date:	Officer: 18/05/2017 Bryn Pryce
Applicant:	Mr Chapman Trewern, Fronhaul, Welshpool, Powys SY21 8DU		
Location:	Land at Gate Farm, Criggion Lane, Trewern, Welshpool, Powys SY21 8DU		
Proposal:	Outline application for residential development for up to 9 dwellings, garages, improvement to vehicular access, demolition of existing buildings and all associated works		
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

This site is located off the C2039 classified highway within the key settlement of Trewern. This site is located off a private lane. The site is currently occupied by a number of traditional red brick agricultural farm buildings and modern steel framed buildings bound by post and wire fencing.

This application seeks outline consent for residential development for up to 9 dwellings, garages, improvement to vehicular access, demolition of existing buildings and all associated works. This outline application considers the principle of residential development on the site and access. All other matters are reserved for future consideration.

Consultee Response

Trewern CC

Correspondence received 21st June 2017

Trewern Community Council considered this application at its meeting on 20 June 2017.

We considered that the application should not be approved until measures have been taken to improve safety along Criggion Lane. The issues which particularly concern us are:

- the dangerous access from Criggion Lane onto the A458
- the narrowness of the road and deficiency of pavements
- inadequate street lighting

- absence of a speed limit

These issues create risks for vulnerable pedestrians including children who need to walk to the main road in order to catch school buses. Further housing without attention to these issues would add to the dangers.

In addition whilst we support sustainable development in Trewern we feel that it is important that the most suitable sites are properly prioritised. This is very difficult in the absence of an up to date development plan. We are very concerned that the cumulative impact of the current planning proposals would put an unacceptable strain on local infrastructure.

Highways Dept north

Correspondence received 27th July 2017

The County Council as Highway Authority for the County Class III Highway, C2079

**Wish the following recommendations/Observations be applied
Recommendations/Observations**

Prior to any works being commenced on the development site the applicant shall submit and have approved in writing by the Local Planning Authority a scheme for the erection of additional three street lights on the C2039. The street lights shall be erected/energised prior to any of the dwellings being occupied on the development site.

HC4 Prior to 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.

HC7 Prior to 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 10 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 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 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.

HC10 The gradient from the back of the footway/verge to the vehicle parking areas shall be constructed so as not to exceed 1 in 30 and shall be retained at this gradient for as long as the dwellings remain 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.

HC12 The width of the access carriageway, constructed as Condition HC7 above, shall be not less than 5.5 metres for a minimum distance of 10 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

HC19 No building shall be occupied before the estate road carriageway and one footway shall be constructed to and including binder course level to an adoptable standard including the provision of any salt bins, surface water drainage and street lighting in front of that building and to the junction with the county highway.

HC20 The estate road carriageway and all footways shall be fully completed, in accordance with the details to be agreed in writing by the Local Planning Authority, upon the issuing of the Building Regulations Completion Certificate for the last house or within two years from the commencement of the development, whichever is the sooner. The agreed standard of completion shall be maintained 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.

HC31 The area of each private drive and any turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for 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.

In the interests of highway safety.

Building Control

Correspondence received 30th May 2017

Building Regulations application required.

Wales & West Utilities

Correspondence received 2nd June 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.

Severn Trent Water

Correspondence received 5th June 2017

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution

To help us provide an efficient response please could you send all responses to welshplanning@severntrent.co.uk rather than to named individuals, including the STW ref within the email/subject.

Environmental health – Environmental Protection

Correspondence received 8th June 2017

Re: Outline application for residential development for up to 9 dwellings, garages, improvement to vehicular access, demolition of existing buildings and all associated works.

Foul drainage

Environmental Protection has no objection to the proposal to connect to the Severn Trent Water mains sewer.

Construction-phase noise impact

Due to the residential nature of the setting, Environmental Protection recommends that measures are in place to control the level of noise disturbance to neighbouring properties during the construction phase of the development.

This department would recommend that the 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 Sundays and Bank Holidays

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

Environmental Health – Contaminated Land

Correspondence received 9th June 2017

In relation to Planning Application P/2017/0574 the following advice is provided for the consideration of Development Control.

Advice

1. The application proposal involves a residential development on land that is currently occupied by Gate Farm and associated buildings and infrastructure. Former agricultural buildings and land may contain potential sources of contamination depending on what they were used for in the past such as: pesticides, fuels and oils, slurry tanks and pits, fire sites, animal burial pits or other buried waste, fertiliser, sheep dip pits, asbestos, old machinery, waste chemical drums and ammunition.

Furthermore, historic ordnance survey (OS) maps identify that the application site adjoins an area of unknown filled ground. Areas of unknown filled ground could be potential sources of land contamination depending on the type and nature of the materials that have been used as fill.

2. Paragraph 13.5.1, of Chapter 13 ‘Minimising and Managing Environmental Risks and Pollution’, of the Welsh Government document ‘Planning Policy Wales’ (2016) advises: *“responsibility for determining the extent and effects of instability or other risks remains that of the developer. It is for the developer to ensure that the land is suitable for the development proposed, as a planning authority does not have a duty of care to landowners”*.

3. Based on the available information the following is recommended:

1. The planning applicant could submit a preliminary investigation and preliminary risk assessment (‘Phase 1’ report) in support of Planning Application P/2017/0574. A preliminary investigation and preliminary risk assessment should be completed by a qualified and

experienced environmental consultant, and in accordance with current guidance and best practice. If a preliminary risk assessment identifies that there are potentially unacceptable risks a detailed scope of works for an intrusive investigation, prepared by a qualified and experienced environmental consultant, should also be submitted for review and approval.

II. Alternatively, the following Condition and Note to the applicant could be attached to any permission granted for Planning Application P/2017/0574:

Condition A

Condition 1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons (*a contaminated land specialist with proven experience within the contaminated land industry*) and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and the WLGA document *'Development of land affected by contamination: a guide for developers' 2012*.

Item (iii) above should not be submitted until written approval has been obtained from the Local Planning Authority for items (i) & (ii).

Condition 2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990, The Contaminated Land (Wales) Regulations 2001 in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 1 has been received from the Local Planning Authority.

Condition 3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority. *The verification report contents must be agreed with the Local Planning Authority before commencement of the remediation scheme.*

Condition 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

Condition 5. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the Local Planning Authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason (common to all): To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy ____ of the adopted Local Plan (date)].

Note to Applicant

Potential Contamination

The Council's guidance leaflet on the development of sites with potential land contamination is attached. Further advice on compliance with this condition may be obtained by contacting the Environmental Health Service on 0870 1923757.

PCC Ecologist

Correspondence received 27th July 2017

Thank you for consulting me with regards to planning application P/2017/0574 which concerns an Outline application for residential development for up to 9 dwellings, garages, improvement to vehicular access, demolition of existing buildings and all associated works at Land at Gate Farm, Criggion Lane, Trewern, Welshpool.

I have reviewed the proposed plans submitted with the application as well as photographs of the site and surrounding habitats, local records of protected and priority species and designated sites within 500m of the proposed development.

The data search identified 37 records of protected and priority species within 500m of the proposed development. No records were for the site itself.

No statutory or non-statutory designated sites are present within 500m of the proposed development.

The site of the proposed development comprises areas of improved grassland and hardstanding habitats of low ecological value. The boundaries of the site comprises areas of hedgerows and trees habitats of high ecological value. In addition there are a number of agricultural buildings present on the site that would need to be demolished to accommodate the proposed development.

Where applications involve works to barns consideration is given to the potential for bats to be impacted by the works – barn structures are often used by bats for roosting purposes. I have reviewed photographs taken during your site visit to consider the potential for the agricultural buildings that would be demolished to accommodate the proposed development to support roosting bats.

Having reviewed these images it is noted that the agricultural buildings affected are of a mixture of construction types including modern steel portal framed structures and a more traditional brick barn structure.

Having reviewed the external and internal photos of these structures it is considered unlikely that the structures affected provide suitable features or conditions to be used by roosting bats.

- The nature of the modern barn structures lack suitable features and the necessary conditions favoured by bats for roosting purposes.
- The traditional barn structure may have previously had potential to support roosting bats however it is noted from the site visit photographs that the roof covering has been removed leaving only exposed roof support timbers - which would expose any potential roosting features to the elements which would reduce their potential. A review of the photos of the interior of the ground floor

of this structure showed that no suitable roosting features are present at this level.

Given the lack of suitable features for use by roosting bats in the agricultural buildings affected by the proposed development it is considered that no further information regarding potential impacts to roosting bats is required to support the application. Whilst it is considered that the traditional agricultural barn in its current state lacks features suitable to support roosting bats it is considered that prior to removal of the roof covering the building could have had potential to support roosting bats. **It is recommended that the provision of compensation measures for roosting bats should be secured through the proposed development through an appropriately worded condition.**

Whilst the agricultural buildings are considered unsuitable to support roosting bats it is considered that they have potential to support nesting birds. Consideration will need to be given to the provision of compensation nesting habitat for nesting birds as part of the proposed development. **It is recommended that the provision of compensation measures for nesting birds should be secured through the proposed development through an appropriately worded condition.**

With regards to other protected and priority species identified as present in the local area by the data search it is not considered likely that the proposed development would result in negative impacts to these species and no surveys are considered necessary.

The submitted plans and associated information identify that an improved access is proposed for the site off Criggion Lane. In order to improve the access and achieve the required visibility splays it has been identified that it is proposed to remove the existing conifer hedgerow, this will be replaced by a new native species hedgerow behind a new grass verge north west of the access to the site.

Hedgerows are 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. Hedgerows and linear tree features are also included in the Powys LBAP 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'. Powys UDP Policy ENV2 states that

'Proposals which are acceptable in principal should:

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

Where impacts to hedgerows or trees are identified an appropriate compensation strategy will be required, it is noted that the submitted plans indicate that the boundary hedgerow affected by the proposed access will be replaced by a new native species hedgerow behind the required visibility – the provision of new hedgerow planting to replace the hedgerow that will be removed is welcomed and the provision of a new native species hedgerow in place of the existing conifer hedgerow is considered to provide benefits for biodiversity – biodiversity enhancements in accordance with the requirements of Section 6 of the Environment (Wales) Act 2016. **Details of the native hedgerow planting should be secured as part of a Landscaping Scheme condition.**

Whilst it is acknowledged that the submitted plans are indicative at this stage and that further detailed design will be provided as reserved matters it is noted that the proposed plans indicate the provision of landscaping including what appears to be some hedgerow and tree planting as part of the proposed development. The provision of landscaping is welcomed, it is recommended that species used in landscaping are native (in accordance with UDP policy GP1) this would also serve to provide biodiversity enhancements in accordance with the requirements of Section 6 of the Environment (Wales) Act 2016. **It is recommended that a detailed landscaping scheme is secured through an appropriately worded condition.**

Given the relatively rural location of the proposed development careful consideration will need to be given to any proposed external lighting design within the detailed design of the development to minimise impacts to nocturnal wildlife commuting and foraging in the local area. **It is recommended that a planning condition securing a wildlife sensitive lighting scheme is secured through an appropriately worded condition.**

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

Prior to the commencement of development works, a bat and nesting bird compensation scheme, to include provision of at least five features for bat roosting or bird nesting, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be undertaken and/or installed prior to the first beneficial use of the development hereby approved, in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

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 the Environment (Wales) Act 2016.

Prior to the commencement of the development a Landscaping and Management Plan shall be submitted to and agreed with the Local Planning Authority and shall be implemented in the first planting season of the following occupation of the development. The Plan shall include the use of native species, details of the planting specification – the species, sizes and planting densities – and a timetable for implementation and future management to ensure good establishment and long-term retention

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV2 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.

No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3, ENV5 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.

In addition I recommend inclusion of the following Informative:

Birds - Wildlife and Countryside Act 1981 (as amended)

The site of the proposed tree works is considered to have potential to support nesting birds during the breeding season. All nesting birds, their nests, eggs and young are protected under the Wildlife and Countryside Act 1981 (as amended).

It is therefore 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.

Cllr Amanda Jenner

As the relevant local member, I wish to make the following comments:

This application should not be approved until there have been substantial measures taken to improve the safety of the access lane, Criggion Lane. This lane is narrow in places and does not have a speed restriction. I have been contacted by a number of residents who are concerned about the lack of speed restriction given the narrowness of the road and that there are residential developments along this road. Further development will add to the dangers. Further, there is an absence of street lighting, deficient pavements and therefore, there could be a significant risk to pedestrians who would need to walk along this road. The road adjoins the A458 which is the main Trunk road to both Welshpool and Shrewsbury and therefore used by school children and elderly residents.

Further, there are a number of other applications (in Middletown) and I am of the view that each of the current applications for development in Middletown and Trewern cannot be considered in isolation. It is important that there is sustainable development within these villages (given their shared services) and therefore, that only the most suitable of sites are

selected. This is difficult as there is no up to date development plan. Consideration needs to be given to the cumulative impact of all of the planning applications and the potential strain that they would cause on the current infrastructure, including the school (in Trewern).

I also understand that there has been no visible notice for this application on the site where it is proposed. This should be addressed immediately and residents given further time to respond to this application.

Representations

A public site notice was displayed at the site for a period of 21 days. One letter of objection was received in response. Comments raised were in relation to the points as below:

- Drainage
- Loss of Amenity

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 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

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
HP14 – Sustainable Housing
DC1 – Access by Disabled Persons
DC3 – External Lighting
DC8 – Public Water Supply
DC10 – Mains Sewage Treatment
DC13 – Surface Water Drainage
TR2 – Tourist Attractions and Development Areas

Powys County Council Residential Design Guide (2004)

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 mostly within but part adjacent to the settlement boundary of Trewern which is classified in the Powys Unitary Development Plan 2010 as a Key Settlement. The proposal is for up to 9 dwellings two of which are to be affordable dwellings. The proposed development therefore 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 consideration must be given to must consider the location of the proposed development in terms of the sustainability of the development. Account should be given to the range of services and facilities available within close proximity to the site.

Trewern is defined in the UDP as a Key Settlement with two allocated sites (M195 – HA1 and M195 – HA2) which have been completed. The settlement itself has a chapel, primary school, community centre, playground, recycling centre and public transport links. Trewern is located approximately 4.6 miles driving distance north east of the area centre of Welshpool which has a wide range of key services and facilities. Welshpool is readily accessible via public transport from bus stops a short walking distance from the site. The proposed location is considered to be sustainable for the scale of development proposed.

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. The submitted plans and indicative site plan layout shows the site to accommodate 6 no. 3 bedroom dwellings and 3 no. 4 bed dwellings. Two of the six 3 bed dwellings are to be allocated as affordable dwellings. This is in line with the 20% affordable housing contribution requirements as evidenced for the area through evidence provided as part of the LDP process.

The dwellings will vary in length from 8-15 metres, width from 6-12 metres, with a mix of single and two storey dwellings ranging from 5.5 – 8.5 metres in height.

No indicative details of design of the dwellings but they are intended to reflect the character and appearance of the surrounding area. The design and access statement suggests that the proposed dwellings would be finished with facing brickwork with an element of white painted render.

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 nine 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.

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 located mostly within the settlement boundary of Trewern with part of the site directly adjacent to the boundary. It is considered that the siting of the proposed dwellings is acceptable in the proposed location. Although landscaping is not considered as part of this application process it is considered that the proposed site is well integrated within the existing key settlement and would not have an unacceptable adverse visual impact upon the character and appearance of the surrounding area. The replacement of the existing agricultural buildings which are in a poor state of repair would be a visual improvement to the area whilst making good use of a brownfield site.

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.

As part of this application process the highways authority have been consulted and no objections have been raised subject to the inclusion of the recommended conditions upon any grant of consent. Whilst taking into account the Community Councils and County Councillors comments, Officers are satisfied that subject to the conditions as suggested that the proposed development is considered to have an acceptable access.

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.

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. Policy DC11 seeks to ensure that the adequate provision for foul sewerage can be provided on site via the public foul sewerage system or private treatment plants.

Apart of this application process the council's environmental health officers have been consulted who have raised no objection to the scheme as it is to feed into the public sewerage system. Severn Trent have also been consulted and have raised no objection to the proposal but have requested conditions in relation to the routing of the foul and surface water drainage.

Officers consider that subject to the suggested condition that the proposed development fundamentally complies with policy DC11 and DC13 of the Powys Unitary Development Plan 2010 in respect of foul and surface water drainage.

Ecology and Biodiversity

As part of this application process our county ecologist has been consulted and has provided comments on the application. No objections have been raised by the ecologist to the proposed development subject to the inclusion of the suggested conditions.

In light of the above and comments received, subject to the suggested conditions officers consider that the proposed development fundamentally complies with Policy ENV7 of the Powys Unitary Development Plan 2010.

Contaminated Land

As part of this application process the council contaminated land officer has been consulted and has provided comments. The existing site houses agricultural buildings and areas of hardstanding. The officer has raised the potential for sources of contamination on the site given the sites current use. Evidence is also held that the land adjoins an area of unknown filled ground. As a result the contaminated land officer has recommended that a number of conditions be attached to any grant of consent to seek information and remediation measures for the site. Officers consider given the current and previous uses on the site it is necessary to attach such conditions to any grant of consent.

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.

In the 2011 census the Trewern Ward reported 14% of the population spoke Welsh. This is an increase from the 2001 census which stated that 2.4% of the population of Trewern spoke Welsh. Officers consider that the development of nine dwellings in this settlement will not have an unacceptable detrimental impact on the cultural or linguistic vitality of the area.

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. Details of the access, 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 received on 17th May 2017 (drawing no's: RPP/GD-JOB23-01, RPP/GD-JOB23-02, RPP/GD-JOB23-03).
5. Prior to any works being commenced on the development site the applicant shall submit and have approved in writing by the Local Planning Authority a scheme for the erection of additional three street lights on the C2039. The street lights shall be operational prior to any of the dwellings being occupied on the development site.
6. 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 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.

7. Before any other development commences the access to be used by vehicles shall 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 10 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.
8. 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 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.
9. The gradient from the back of the footway/verge to the vehicle parking areas shall be constructed so as not to exceed 1 in 30 and shall be retained at this gradient for as long as the dwellings remain in existence.
10. Before any other development 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 0.4 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. The width of the access carriageway, constructed as condition 7 above, shall be not less than 5.5 metres for a minimum distance of 10 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.
12. The estate road carriageway and all footways shall be fully completed, in accordance with the details to be agreed in writing by the Local Planning Authority prior to the commencement of development, upon the issuing of the Building Regulations Completion Certificate for the last house or within two years from the commencement of the development, whichever is the sooner. The agreed standard of completion shall be maintained for as long as the development remains in existence.
13. Upon formation of the visibility splays as detailed in condition 6 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.

14. The area of each private drive and any turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.
15. No storm water drainage from the site shall be allowed to discharge onto the county highway.
16. Prior to the commencement of development works, a bat and nesting bird compensation scheme, to include provision of at least five features for bat roosting or bird nesting, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be undertaken and/or installed prior to the first beneficial use of the development hereby approved, in accordance with the approved details.
17. Prior to the commencement of the development a Landscaping and Management Plan shall be submitted to and agreed with the Local Planning Authority and shall be implemented in the first planting season of the following occupation of the development. The Plan shall include the use of native species, details of the planting specification - the species, sizes and planting densities - and a timetable for implementation and future management to ensure good establishment and long-term retention
18. No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.
19. The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
20. 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 Sundays and Bank Holidays

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

21. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons (a contaminated land specialist with proven experience within

the contaminated land industry) and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's (Model Procedures for the Management of Land Contamination, CLR 11) and the WLGA document (Development of land affected by contamination: a guide for developers) 2012 .

Item (iii) above should not be submitted until written approval has been obtained from the Local Planning Authority for items (i) & (ii).

22. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990, The Contaminated Land (Wales) Regulations 2001 in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for condition 22 has been received from the Local Planning Authority.
23. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority. The verification report contents must be agreed with the Local Planning Authority before commencement of the remediation scheme.

24. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance

with the requirements of condition 23, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 24.

25. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the Local Planning Authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

26. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:

- i) the type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 2 housing unit space;
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

27. The affordable dwellings shall have a maximum gross floor area of 130 square metres (measured internally and including garages where designed as an integral part of the dwelling) and notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and reenacting that order with or without modification), the affordable dwelling shall not be subject to extensions, roof alterations and buildings other than those expressly authorised by the reserved matters approval.

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. 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.
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.
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14. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
15. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
16. 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 the Environment (Wales) Act 2016.

17. To comply with Powys County Council's UDP Policies SP3 and ENV2 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.
18. To comply with Powys County Council's UDP Policies SP3, ENV3, ENV5 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.
19. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution
20. To safeguard the amenities of the locality in accordance with policy GP1 of the Powys Unitary Development Plan.
21. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with the Powys Unitary Development Plan 2010.
22. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Powys Unitary Development Plan 2010.
23. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Powys Unitary Development Plan 2010.
24. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Powys Unitary Development Plan 2010.
25. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with the Powys Unitary Development Plan 2010.
26. The dwellings are hereby permitted as an exception to normal housing policies. This condition is imposed to control the future affordability and management of the

development in accordance with policies HP7 of the Powys Unitary Development Plan (2010).

27. In order to ensure the provision of affordable housing in accordance with policies HP5, HP7 and HP10 of the Powys Unitary Development Plan (2010), Technical Advice Note 2: Planning and Affordable Housing (2006) and Planning Policy Wales (2016).

Informative Notes

Birds - Wildlife and Countryside Act 1981 (as amended)

The site of the proposed tree works is considered to have potential to support nesting birds during the breeding season. All nesting birds, their nests, eggs and young are protected under the Wildlife and Countryside Act 1981 (as amended).

It is therefore 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.

Potential Contamination

The Council's guidance leaflet on the development of sites with potential land contamination is attached. Further advice on compliance with this condition may be obtained by contacting the Environmental Health Service on 0870 1923757.

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