

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: P/2017/0730

Grid Ref: 294097.54
298835.91

Community Council: Carno

Valid Date: 06/07/2017
Officer: Luke Jones

Applicant: Powys County Council

Location: Land over River Carno, Between Talerddig and Carno, Powys

Proposal: Full: Construction of new public footbridge on diverted Footpath 29 to facilitate the elimination of five level crossings on the Cambrian Railway Line

Application Type: Application for Full Planning Permission

The reason for Committee determination

As the applicant is Powys County Council.

Site Location and Description

The site subject of this scheme is located in the Carno valley between the villages of Talerddig and Carno and to the southern side of the A470 trunk road. The proposed footbridge is to be located at the end of an existing unclassified highway U2533 which forms part of the diverted footpath route. The proposed footbridge will be located adjacent to an existing private vehicular access bridge which crosses the Afon Carno.

The proposed footbridge will provide a crossing over the Afon Carno as a result of the diversion of public footpath 29 as a result of a scheme to close 5 level crossings granted permission under reference P/2013/0590.

The proposed footbridge will be constructed from aluminium due to its low maintenance requirements. The footbridge will be supported by simple bank seat supports to prevent the disturbance of existing block stone. The proposed footbridge will measure approximately 9.4 metres in length and 1.8 metres in width. The soffit height of the footbridge is approximately 1.5m above the river bed.

Consultee Responses

Carno Community Council

No objection with comments, seems to be a bit of an overkill given you can walk over the river via a track

PCC – Highways

The County Council as Highway Authority for the County Highway, U2533

Wish the following recommendations/Observations be applied.

Recommendations/Observations

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.

Wales & West Utilities

Wales & West Utilities have been made aware of a planning application on 11.07.2017, advising us of the proposals at:

Cambrian Railway Line, Carno, Caersws, Powys, SY17 5JU

We enclose an extract from our mains records of the area covered by your proposals together with a comprehensive list of General Conditions for your guidance. This plan shows only those pipes owned by Wales & West Utilities in its role as a Licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned pipes may be present in this area. Information with regard to such pipes should be obtained from the owners. The information shown on this plan is given without obligation, or warranty and the accuracy thereof cannot be guaranteed. Service pipes, valves, syphons, stub connections, etc., are not shown but their presence should be anticipated. No liability of any kind whatsoever is accepted by Wales & West Utilities, its agents or servants for any error or omission.

Wales & West Utilities apparatus may be directly affected by these proposals and the Information you have provided has been forwarded to Asset Management for their comments. If Wales and West are affected an Engineer will then contact you direct

Please note this is in regard only to those pipes owned by Wales & West Utilities in its role as a licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned may be present in this area and information with regards to such pipes should be obtained from the owners.

You must not build over any of our plant or enclose our apparatus.

Severn Trent Water

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied

Natural Resources Wales

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 11/07/2017. NRW have no objection to the above application, as explained in more detail below.

Flood Risk

The application site lies partially within Zone C2, as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004).

We note that the proposal is on a non-main river, therefore we advise the Lead Local Flood Authority (LLFA) are the appropriate department to comment on the design and to issue any ordinary watercourse consent.

Environmental Management

Due to the proximity of the site to a watercourse, all works at the site must be carried out in accordance with GPP5 and PPG6: 'Works in, near or over watercourses' and 'Working at construction and demolition sites' which are available on the following website: <http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

Please do not hesitate to contact us if you require further information or clarification on any of the above.

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.

PCC – Ecologist

Planning Application Reference	P/2017/0730
Project Name / Description	Full: Construction of new public footbridge on diverted Footpath 29 to facilitate the elimination of five level crossings on the Cambrian Railway Line
Consultation Deadline	09/08/2017

Ecological Topic		Observations
EIA Screening Opinion needed?	Unknown / Unconfirmed	The proposals involve the construction of a new footbridge (within a 25m ² area) over Afon Carno as part of a diversion of Public Footpath 29. The development forms part of a wider scope of works which were previously approved via planning application P/2016/0195. It is therefore expected that the EIA Screening requirements for the whole project would have been dealt with at that time, but I recommend that this is confirmed by the planning officer.
Ecological Information included with application?	Yes	<p>A protected species survey was previously completed for the wider scope of works in 2011 (Pearce Environment) and amphibian survey in 2012 (Amey) (refer to application reference: P/2013/0590) and the findings have therefore been considered for these observations. Considering that these surveys are now six and five years old respectively, I recommended that a current ecological survey <u>is-was</u> completed to determine potential ecological impacts associated with the development.</p> <p>An extended Phase 1 habitat survey was completed by the Powys County Council Planning and Highways Ecologist on 20th July 2017 and the report submitted with this application. The survey included an assessment for the presence or potential presence of protected species, including bats, badgers, dormice, reptiles, amphibians and nesting birds. Otters, fish species and nesting birds were identified as potential species that could be affected by the proposed works.</p>

		<p>These observations are also based on an interpretation of available aerial imagery and historical biodiversity records provided by the Powys and Brecon Beacons National Park Biodiversity Information Service, along with various documents presented with the application such as the Design and Access Statement and Planning Statement.</p> <p>The application site is located over the Afon Carno and is surrounded by improved agricultural grassland and lined by hedgerows and hedgerow trees.</p>
Protected Species & Habitats ¹	European Species <input checked="" type="checkbox"/>	<p>There are historic records of Natterer's and Common Pipistrelle bat species from within 377m to the south of the site.</p> <p>A thorough search around the location of the proposed footbridge and of the river banks 50m up and downstream to identify evidence of otter activity was undertaken as part of the July 2017 ecology survey. No evidence of otter was observed during the survey. The July 2017 ecology report confirms that several features were identified within 50m of the proposed works location which had potential to support otter for resting purposes, however inspection of these features found no evidence to confirm use of these features by otter. Nevertheless, since otters are found on the majority of watercourses in Powys the report includes reasonable avoidance measures to be adopted during the works to ensure minimal impact on otter activity in the area.</p> <p>A presence/absence survey for great crested newts within a small watercourse approximately 50m to the south of the site was completed by Amey in June 2012, although the survey was substandard occurring late in the GCN surveying season and involving only one site visit. The report confirmed that the watercourse provides reasonably favourable breeding habitat for GCN with rushes <i>Juncus</i> species present in abundance on the banks of the watercourse. The grassland also located adjacent to either side of the watercourse provides habitat for refuge from hot, dry conditions. The report therefore recommended that further GCN surveys were undertaken between mid-March to mid-June 2013 when night time temperatures are consistently below 5°C, with at least two of these visits during mid-April to mid-May.</p>

		<p>However, following the extended Phase 1 habitat survey in July 2017 (PCC, 2017) it was considered that there is negligible potential for great crested newt to be present on site, as there are no ponds on the site itself or on adjacent land, a review of OS maps shows the closest pond to be approximately 200m from the site. No records of great crested newt were identified within 1km of the site and previous surveys at the site found no evidence of great crested newt to be present.</p> <p>It is noted that there were previously considered to be no suitable bat roosting trees present on site, and this was confirmed during the 2017 survey. An inspection of the under bridge (which is to be retained within the proposal) found no sign of bat roosting and no suitable crevices (Pearce Environment, Sept 2011) and was confirmed to have negligible potential for roosting bats during the July 2017 survey. However, the July 2017 report (PCC, 2017) confirms that open grassland habitat and hedgerows present on and around the site are likely to provide important feeding and commuting opportunities for bats. It is understood that these features would not be affected.</p>
	<p>UK Species <input checked="" type="checkbox"/></p>	<p>There are historic records of Common Lizard and nesting Barn Owls within 2km of the application site.</p> <p>A survey for water voles within a small watercourse to the south of the site was completed by Amey in June 2012 and no signs of Water Vole were observed at the time.</p> <p>No suitable habitat for reptiles were found as part of the July 2017 survey, and the report concludes that the management of the site suggests that it is unlikely that such species are present. However the report recommends that if any reptiles are encountered during the development works, all works must cease immediately and a qualified ecologist contacted.</p> <p>No badger setts were identified on the site or within the boundary features during the July 2017 survey and no evidence of badger activity was found during the survey; the 2017 report concludes that it is unlikely that badgers are present on site.</p>

		<p>Bird activity on site was noted during the July 2017 survey and the report concludes that it is likely that breeding occurs within the hedgerows and trees on site. The existing bridge was not considered to provide suitable habitat for nesting birds. However, it is understood that there will be no works required to any vegetation suitable for use by nesting birds. The report proposes that where required, vegetation removal will be undertaken outside of the nesting bird season, and that where there are concerns that nesting birds may be present suitable checks will be undertaken by a suitably qualified and experienced Ecologist to confirm that no nesting birds are present.</p>
	<p>Section 7 Species & Habitats <input checked="" type="checkbox"/></p>	<p>The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>The July 2017 Ecology Report (PCC, 2017) confirms that the proposed footbridge crosses the Afon Carno, the eastern boundary of the Afon Carno downstream of the proposed footbridge location is formed by an intact hedgerow and the western boundary of the Afon Carno upstream of the proposed footbridge location is formed by a line of hedgerow trees. Rivers and hedgerows are listed as "habitats of principal importance for the purposes of conserving biodiversity" as identified in Section 7 of the Environment (Wales) Act 2016.</p> <p>The report confirms that no works are proposed to be undertaken within the watercourse or immediately adjacent to the watercourse, nor to any hedgerows or trees. However, given the importance of the Afon Carno for fish species (brown trout, a Section 7 priority species, were observed in the river during the survey) pollution prevention and biosecurity measures will need to be implemented to ensure no negative impacts to water quality or riparian fauna and flora.</p>
	<p>LBAP Species & Habitats <input checked="" type="checkbox"/></p>	<p>Please refer to the observations above.</p>

Protected Sites	International Sites ² <input type="checkbox"/>	None present within the search area.
	National Sites ³ <input type="checkbox"/>	None present within the search area.
	Local Sites (within 500m) <input type="checkbox"/>	None present within the search area.
Invasive Non-Native Species	No	The 2017 ecology report (PCC, 2017) confirmed that no non-native or invasive species were found in the location of the proposed footbridge or within 50m of the proposed works.
Recommendations		I recommend that the planning officer confirms that the relevant EIA Screening requirement for the project as a whole has been fully discharged by the LPA.
Further information required prior to determination of application		None.
Recommended Conditions		<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>The mitigation regarding biosecurity, pollution prevention, otters and trees/vegetation in Section 11 of the ecological report by Powys County Council dated July 2017 shall be adhered to and implemented in full unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9,</p>

	<p>November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>The Pollution Prevention Measures submitted to the Local Planning Authority within Section 11.3 of the Ecological Report by Powys County Council (July 2017) shall be implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies ENV3, ENV4, ENV5 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.</p> <p>Informatives</p> <p>Birds - Wildlife and Countryside Act 1981 (as amended)</p> <p>All nesting birds, their nests, eggs and young are protected by law and it is an offence to:</p> <ul style="list-style-type: none"> • intentionally kill, injure or take any wild bird • intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built • intentionally take or destroy the egg of any wild bird • intentionally (or recklessly in England and Wales) disturb any wild bird listed on
--	--

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

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

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

- Deliberately capture, injure or kill an otter;
- Deliberately disturb an otter in such a way as to be likely to significantly affect the local distribution or abundance of otters or the ability of any significant group of otters to survive, breed, rear or nurture their young;
- Damage or destroy an otter holt;
- Intentionally or recklessly disturb any otter whilst it is occupying a holt; or
- Intentionally or recklessly obstruct access to a holt.

Reasonable avoidance measures need to be implemented to ensure minimal impact to otter activity in the local area. These will include:

- No night working or lighting of the works area;
- Ensuring that no barriers to movement of otters along the river are created;
- Keep unnecessary noise to a minimum during the works; and
- Do not light any fires close to areas of vegetation.

Reptiles - Wildlife & Countryside Act 1981 (as amended)

All UK native reptile species are protected by law. The Wildlife & Countryside Act 1981 (and later amendments) provides the legal framework for this protection.

The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury

All species of reptile are priority species in the UK BAP and have been adopted on the Section 7

	list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.
Relevant UDP Policies	SP3 Natural, Historic and Built Heritage ENV 2: Safeguard the Landscape ENV 3: Safeguard Biodiversity and Natural Habitats ENV 4: Internationally Important Sites ENV 5: Nationally Important Sites ENV 6: Sites of Regional and Local Importance ENV 7: Protected Species
Comments on Additional Information	N/A

Document Author	Chris Jones	Approved by	Rhydian Roberts
Version	2	Approved Date	04/08/2017

PCC – Land Drainage

The Lead Local Flood Authority has no objection to the proposals but would advise that there is need for the applicant to secure an Ordinary Watercourse Consent (OWC) prior to commencement of the work. Further details regarding the OWC can be obtained from the County Council’s Land Drainage team (email: land.drainage@powys.gov.uk).

Public Response

Following display of a site notice on the 20/07/2017, there have been no public representations received.

Planning History

P/2016/0195 - Creation of 4 attenuation ponds, Widening and providing set-back for previously consented field access's and relaxing a batter slope, Conditional Consent

DIS/2016/0072 - Application to discharge condition no.7 attached to planning permission P/2013/0590 (biodiversity enhancement plan), Approved

P/2013/0590 - Full: Closure of 5 no. level crossings located on the Shrewsbury to Aberystwyth Railway Line, the construction of 2 no. new road overbridges over the railway, the construction of 1 no. new bridge over the river carno, construction of new approach roads (to link the new bridges in with existing roads/highways), the closure of an existing access to the A470 trunk road and the formation of a new access to the trunk road and stopping up/diversion/closure of existing highways and bridleways/footpaths. Conditional Consent

Planning Constraints

Public Rights of Way
C2 Flood Zone
A470 Trunk Road
Unclassified Roads
Dyfi Biosphere
Railway Land
Talerddig Railway Cutting

Principal Planning Policies

National Policies

Planning Policy Wales (Edition 9, November 2016)
Technical Advice Note 15 - Development and Flood Risk (2004)
Technical Advice Note 5 – Nature Conservation and Planning (2009)

Local Policies

UDP DC1 - Access by Disabled Persons
UDP DC13 - Surface Water Drainage
UDP DC15 - Development on Unstable or Contaminated Land
UDP ENV 17 - Ancient Monuments & Archaeological Sites
UDP ENV 18 - Development Proposals Affecting Archaeological Sites
UDP ENV 2 - Safeguarding the Landscape
UDP ENV 3 - Safeguarding Biodiversity & Natural Habitats
UDP ENV 7 - Protected Species
UDP GP4 - Highway and Parking Requirements
UDP RL4 - Outdoor Activity and Pony Trekking Centres
UDP RL6 - Rights of Way and Access to the Countryside
UDP SP14 - Development In Flood Risk Areas
UDP T10 - Rail Facilities & Operations

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

Policy RL6 states that proposals that improve access to and enjoyment of the countryside by the public including persons with limited mobility will be encouraged in particular support will be given to continued maintenance and enhancement of existing rights of way.

According to the pre-ambule to UDP policy T10, the Cambrian main line is one of the principal railway services in the County. This policy seeks to support the improvement and enhancement of rail services within the County, and refers to the need highlighted in the Regional Transport Plan to invest in the frequency and quality of rail services in the area.

Landscape, Design and Siting

UDP policy ENV2 requires proposals to take into account the high quality of the landscape in Powys and to be appropriate and sensitive to the landscape surroundings. In considering landscape impact, consideration should be given to the sensitivity of the particular landscape and the potential impact on its character and appearance.

The proposed development includes the installation of a new public footbridge to provide a crossing over the Afon Carno as a result of the diversion of public footpath 29, due to the scheme to close 5 level crossing granted permission under planning reference P/2015/0590. The proposed footbridge is to be located adjacent to an existing private vehicular access bridge which crosses over the Afon Carno. The proposed footbridge is adjacent to an existing vehicular bridge which helps minimise any possible impact on the landscape and surrounding area.

The proposed footbridge will be constructed from aluminium due to its low maintenance requirements. The footbridge will be supported by simple bank seat supports to prevent the disturbance of existing block stone. The proposed footbridge will measure approximately 9.4 metres in length and 1.8 metres in width. The soffit height of the footbridge is approximately 1.5m above the river bed.

The proposed footbridge is required for the safety of footpath users due to the Afon Carno being a flash flood river.

Highways

A safe access, parking and visibility splays are a fundamental requirement of any development.

The application does not seek alterations to the existing means of access to the property and the proposal would not affect the existing parking area. The Local Highway Authority has been consulted on this application and recommended the inclusion of a condition regarding parking of all construction vehicles together with a vehicle turning area. Having considered the proposed development it is unlikely that the proposed footbridge will have a detrimental impact on highway safety.

In light of the above and subject to the proposed condition it is therefore considered that the proposed development fundamentally complies with relevant planning policy.

Flood Risk

The application site lies partially within the C2 flood zone, as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004).

Powys Land Drainage as Lead Local Flood Authority has been consulted on the application and raised no objection to the proposals but would advise that there is need for the applicant to secure an Ordinary Watercourse Consent (OWC) prior to commencement of the work.

In light of the above it is therefore considered that the proposed development fundamentally complies with relevant planning policy.

Biodiversity

With respect to Biodiversity, specific reference is made to UDP policy ENV3; as such the Ecologist was consulted with regard to this application.

The Ecologist noted the application site is located over the Afon Carno and is surrounded by improved agricultural grassland and lined by hedgerows and hedgerow trees. The officer noted there are historic records of Natterer's and Common Pipistrelle bat species from within 377m to the south of the site.

No evidence of otter activity was observed during the survey. The July 2017 ecology report confirms that several features were identified within 50m of the proposed works location which had potential to support otter for resting purposes, however inspection of these features found no evidence to confirm use of these features by otter. Nevertheless, since otters are found on the majority of watercourses in Powys the report includes reasonable avoidance measures to be adopted during the works to ensure minimal impact on otter activity in the area.

A presence/absence survey for great crested newts within a small watercourse approximately 50m to the south of the site was completed by Amey in June 2012, although the survey was substandard occurring late in the GCN surveying season and involving only one site visit. The report confirmed that the watercourse provides reasonably favourable breeding habitat for GCN with rushes *Juncus* species present in abundance on the banks of the watercourse. The grassland also located adjacent to either side of the watercourse provides habitat for refuge from hot, dry conditions. The report therefore recommended that further GCN surveys were undertaken between mid-March to mid-June 2013 when night time temperatures are consistently below 5°C, with at least two of these visits during mid-April to mid-May.

However, following the extended Phase 1 habitat survey in July 2017 (PCC, 2017) it was considered that there is negligible potential for great crested newts to be present on site, as there are no ponds on the site itself or on adjacent land, a review of OS maps shows the closest pond to be approximately 200m from the site. No records of great crested newt were identified within 1km of the site and previous surveys at the site found no evidence of great crested newt to be present.

It is noted that there were previously considered to be no suitable bat roosting trees present on site, and this was confirmed during the 2017 survey. An inspection of the under bridge (which is to be retained within the proposal) found no sign of bat roosting and no suitable crevices (Pearce Environment, Sept 2011) and was confirmed to have negligible potential for roosting bats during the July 2017 survey. However, the July 2017 report (PCC, 2017) confirms that open grassland habitat and hedgerows present on and around the site are likely to provide important feeding and commuting opportunities for bats. It is understood that these features would not be affected.

There are historic records of Common Lizard and nesting Barn Owls within 2km of the application site. A survey for water voles within a small watercourse to the south of the site was completed by Amey in June 2012 and no signs of Water Vole were observed at the time. No suitable habitats for reptiles were found as part of the July 2017 survey, and the report concludes that the management of the site suggests that it is unlikely that such species are present. However the report recommends that if any reptiles are encountered during the development works, all works must cease immediately and a qualified ecologist contacted.

No badger setts were identified on the site or within the boundary features during the July 2017 survey and no evidence of badger activity were found during the survey; the 2017 report concludes that it is unlikely that badgers are present on site.

Bird activity on site was noted during the July 2017 survey and the report concludes that it is likely that breeding occurs within the hedgerows and trees on site. The existing bridge was not considered to provide suitable habitat for nesting birds. However, it is understood that there will be no works required to any vegetation suitable for use by nesting birds. The report proposes that where required, vegetation removal will be undertaken outside of the nesting bird season, and that where there are concerns that nesting birds may be present suitable checks will be undertaken by a suitably qualified and experienced Ecologist to confirm that no nesting birds are present.

The Ecologist recommends the inclusion of a number of conditions and an informative note regarding bats and birds.

In light of the above it is therefore considered that the proposed development fundamentally complies with relevant planning policy.

Other Legislative Considerations

Crime and Disorder Act 1998

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

Equality Act 2010

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

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and

- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

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

Planning (Wales) Act 2015 (Welsh language)

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

Wellbeing of Future Generations (Wales) Act 2015

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

RECOMMENDATION

Having carefully considered the proposed development, Officers consider that the proposal complies with relevant planning policy. The proposed development will not cause a detrimental impact on the landscape due to being located near to an existing vehicular access bridge and is unlikely to have an impact on biodiversity. The recommendation is therefore one of conditional approval

Conditions

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission
2. The development shall be carried out strictly in accordance with the plans stamped as approved on XXXXXX (drawing no's: 03C, PL3_001).
3. 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

4. The mitigation regarding biosecurity, pollution prevention, otters and trees/vegetation in Section 11 of the ecological report by Powys County Council dated July 2017 shall be adhered to and implemented in full.

5. The Pollution Prevention Measures submitted to the Local Planning Authority within Section 11.3 of the Ecological Report by Powys County Council (July 2017) shall be implemented as approved and maintained thereafter.

6. 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.

Reasons

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.

3. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.

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

5. To comply with Powys County Council's UDP Policies ENV3, ENV4, ENV5 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

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

Informative Notes

Birds - Wildlife and Countryside Act 1981 (as amended)

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

- intentionally kill, injure or take any wild bird intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on

Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

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

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

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

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

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

Case Officer: Luke Jones- Planning Officer
Tel: 01597 827115 E-mail:luke.jones@powys.gov.uk