

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2017/0845	Grid Ref:	322508.59 308227.47
Community Council:	Welshpool	Valid Date:	Officer: 19/07/2017 Luke Jones
Applicant:	Powys County Council		
Location:	11 Burgess Croft, Welshpool, Powys, SY21 7RJ		
Proposal:	Householder: Alterations to highway/kerb to provide access to driveway. Creation of new driveway and all internal and external adaptation works.		
Application Type:	Householder Application		

The reason for Committee determination

As the applicant is Powys County Council.

Site Location and Description

The application site is located within the community council area of Welshpool. The site is located within a residential area of the town with neighbouring dwellings to the south and east. To the north are further neighbouring dwellings and open countryside and to the east is open countryside.

The proposal includes the creation of a new driveway to the rear of the existing dwelling; the proposal also includes alterations to the highway/kerb to provide access to the new driveway as well as internal and external adaption works. The existing rear garden lawn is to be replaced with a new permeable drive, while the leylandii hedge will also be removed and replaced with a close boarded panel fence.

Consultee Responses

Welshpool Town Council

No comments received at the time of writing this report

PCC – Highways

The County Council as Highway Authority for the County Unclassified Highway, U4411

Whilst the Highway Authority is not opposed to the development and the alteration to the footway, we will need further details to be submitted, prior to any works being commenced, to ensure that the finished gradient is suitable for all pedestrians that may wish to cross this drive entrance to gain access to the amenity land adjacent.

Recommendation:

Prior to any works being commenced on site the applicant shall submit and have approved in writing by the Local Planning Authority full engineering details for the proposed alteration to the footway and new drive.

Prior to any other works being commenced on the dwelling, the altered footway and new drive shall be fully completed to the written satisfaction of the Local Planning Authority.

In the interests of highway safety.

PCC – Building Control

Building Regulations application required.

Wales & West Utilities

Wales & West Utilities have been made aware of a planning application on 31.07.2017, advising us of the proposals at:

11, Burgess Croft, Red Bank, Welshpool, Powys, SY21 7RJ

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 has pipes in the area. Our apparatus may be affected and at risk during construction works.

Should the planning application be approved then we require the promoter of these works to contact us directly to discuss our requirements in detail before any works commence on site. Should diversion works be required these will be fully chargeable.

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

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:

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.

PCC – Ecology

I have reviewed the proposed plans as well as local records of protected and priority species and designated sites within 500m of the proposed development. The data search identified 459 records of protected and priority species within 500m of the proposed development – no records were for the site itself.

There is one statutory designated sites present within 500m of the proposed developments:

Bron-y-Buckley Wood – SSSI

Having considered the location and nature of the proposed development in relation to the designated site it is considered that the proposed development would not result in a negative impact to the designated sites or their associated features.

There are no non-statutory designated sites present within 500m of the proposed developments.

Given the proposed developments involve demolition of an existing structure (Sheds), consideration has been given to the potential for the existing structure to support roosting bats – bats being a European protected species.

However, the existing structure that is proposed to be removed small wooden structure which offers little opportunity and unsuitable features to support roosting bats. In light of this assessment I consider that no further information is considered necessary to determine the potential impact of the proposed development on bats.

From submitted plans it appears that a leylandii hedge will be removed to accommodate the new proposed access.

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

Proposals which are acceptable in principal should:

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

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

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

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

The leylandii hedge may offer bird nesting opportunities. The provisions of appropriate bird nest boxes should be considered to compensate for the potential loss of bird nesting habitat.

It should be recommended that removal of the hedge should take place outside of the bird nesting season (March- August inclusive) in order to avoid disturbance to nesting birds.

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

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

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.

In this instance should you be minded to approve the application I consider it would be appropriate to include an informative advising the applicants of the legal status of nesting birds. Suitable wording for an informative covering these details is as follows:

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.

Public Response

Following display of a site notice on 03/08/2017, there have been no public representations received.

Planning History

None

Principal Planning Policies

National Policies

Planning Policy Wales (Edition 9, November 2016)
Technical Advice Note 5: Nature Conservation and Planning.
Technical Advice Note (TAN) 18 – Transport (2007)

Local Policies

DC1 – Access by Disabled Persons
GP1 – Development Control
GP3 – Design and Energy Conservation
GP4 – Highway and Parking Requirements
ENV2 – Safeguarding the Landscape
ENV3 – Safeguarding Biodiversity and Natural Habitats
ENV7 – Protected Species
TP1 – Highway Improvement Schemes

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

UDP policy GP4 sets out the general requirements applied to all highway developments such as this proposal. The main planning considerations relating to this type of proposal are adequate provision for visibility, turning, and passing and dropped kerbs. The proposed development seeks to create a new driveway as the existing driveway is very steep and not very accessible.

In light of the above it is therefore considered that the principle of the proposed development fundamentally complies with relevant planning policy subject to the following:

Highways

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

The proposed development includes the creation of a new driveway to the rear of the property and alterations to the highway and kerb crossing to provide access to the new driveway. The proposed alterations will provide a level parking area and level access to the entrance doors as well as turning space. The existing driveway is to the front of the property and is of a very steep topography. The proposed new driveway to the rear of the existing property will provide a far easier point of access in general and will also provide sufficient access for wheelchair users.

The proposed driveway will be finished with tarmacadam, the new driveway will provide a level platform for easier access to the dwelling than currently offered by the existing steep sloping driveway.

The Local Highway Authority has been consulted regarding the application as Highway Authority for the County Unclassified Highway, U4411. The Highway Authority noted whilst it is not opposed to the development and the alteration to the footway, the Highway Authority will require further details to be submitted prior to any works being commenced, to ensure that the finished gradient is suitable for all pedestrians that may wish to cross this drive entrance to gain access to the amenity land adjacent. The Highway Authority recommended the inclusion of two conditions.

In light of the above it is therefore considered that the proposed development will fundamentally improve the existing access to the property and will therefore provide a safer access to the dwelling as well as providing suitable access for wheelchair users.

It is therefore considered that subject to the recommended conditions the proposed development fundamentally complies with UDP policy GP4.

Amenities enjoyed by occupiers of neighbouring properties

In considering the amenities enjoyed by the occupiers of neighbouring properties consideration has been given to the Powys Residential Design Guide (October 2004).

It is considered that the proposed development will not have an unacceptable impact on any neighbouring properties in terms of loss of daylight or a negative impact upon any loss of privacy of neighbouring dwellings.

It is therefore considered that the proposed development would not be seen as having a detrimental impact to the amenities enjoyed by neighbouring residential properties and therefore fundamentally complies with relevant planning policy.

Biodiversity

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

The Ecologist reviewed the proposed plans as well as local records of protected and priority species and designated sites within 500m of the proposed development. The data search identified 459 records of protected and priority species within 500m of the proposed development, although no records were for the site itself. There is one statutory designated sites present within 500m of the proposed developments:

Bron-y-Buckley Wood – SSSI

Having considered the location and nature of the proposed development in relation to the designated site it is considered that the proposed development would not result in a negative impact to the designated sites or their associated features.

The Ecologist noted given the proposed development involves demolition of an existing structure (Sheds), consideration has been given to the potential for the existing structure to support roosting bats – bats being a European protected species.

However, the existing structure that is proposed to be removed is a small wooden structure which offers little opportunity and unsuitable features to support roosting bats. In light of this assessment the Ecologist considers that no further information is considered necessary to determine the potential impact of the proposed development on bats.

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

The Ecologist therefore recommended the inclusion of a condition regarding a Tree and Hedgerow Replacement plan. The Ecologist also recommended the inclusion of an informative advising the applicants of the legal status of nesting birds.

In light of the above and subject to the proposed conditions 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

It is considered that the proposal complies with relevant planning policy. 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 XXXXXXXX (drawing no's: 1001C, 1002C, Site Location Plan).

3. Prior to any works being commenced on site the applicant shall submit and have approved in writing by the Local Planning Authority full engineering details for the proposed alteration to the footway and new drive. Development thereafter shall be completed in full accordance with the details as approved.

4. Prior to commencement of development a Tree and Hedgerow Replacement 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, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.

Informative Notes

Biodiversity

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 Schedule1 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.

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