

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: P/2017/0874 **Grid Ref:** 303420.03 309647.81

Community Council: Llanerfyl **Valid Date:** 31/07/2017 **Officer:** Steve Packer

Applicant: Mrs Sioned Roberts, Llangadfan Parc, Welshpool, Powys, SY21 0PJ

Location: Land adjacent to Derwen, Talerddig Road, Llanerfyl, Powys, SY21 0EG

Proposal: Outline application (with some matters reserved) for erection of 7 no. detached dwellings with detached garages, formation of vehicular access, access road and all associated works (amended from 9 dwellings).

Application Type: Application for Outline Planning Permission

The reason for Committee determination

The proposal is a departure from the Unitary Development Plan and the recommendation is one of approval.

Site Location and Description

The proposed housing site is in the northern portion of two large fields used for grazing on the edge of the village of Llanerfyl. The fields are divided by a substantial hedgerow which terminates just short of a field access onto the Talerddig Road opposite the Bethel Chapel. The site is open to the south, is relatively flat and extends 30 metres back from a substantial mixed species hedgerow which forms the northern boundary. A public right of way runs in a southerly direction along the dividing hedge. The western boundary is defined by the curtilage of a dwelling known as Derwen. A line continued north from the site's proposed north- eastern boundary would cross the road and the village car park and would intersect with the steps leading up to the Village Hall.

Two majestic Wellingtonia trees are close-by and mark the access of the Talerddig Road onto the A438 highway and are at a distance from the amended proposal to either threaten or be threatened by the construction of housing.

Previously proposing 9 dwellings, two of which would have fronted onto the A438, the application has been amended to have a frontage exclusively onto the Talerddig road and faces the Hall, Chapel, two bungalows and a paddock on the other side of the highway.

The proposal is in outline but offers an indicative layout of four bungalows and three houses, with the house element suggesting smaller units than those originally applied for.

Vehicular access is shown some 20 metres east of the current field access with the dwellings being served by shared private drives running parallel with the existing hedgerow

from an adopted hammerhead. New tree planting is proposed in the hedgerow with the wide grass verge retained and a new, 2 metre wide footpath along the road. The remaining boundaries would be the subject of hedge and tree planting.

Consultee Response

Llanerfyl CC

1st response

Following a unanimous vote against the proposed development above, Llanerfyl Community Council comment as follows:

The reasons given for the application are not believed to be correct.

Llanerfyl is a small village which holds generations of predominantly welsh speaking local families wishing to remain in the village. There is currently no provision for their dependants to get on the property ladder in the locality.

There are numerous mature couples who have moved from other parts of the UK who have purchased housing stock similar to that which is proposed.

There are a number of properties of this nature currently on the market in the village and in surrounding villages. We feel there is not a need or demand for anymore and therefore do not support this application. To facilitate this development would only further encourage people from outside of the community to buy up this stock. The market aim here is simply not within the financial reach of local young adults/families.

There are no properties of a 'first time buyer' nature available to retain local, predominantly welsh speaking young adults/families wishing to buy their first homes in the village.

We are not against development in the identified land but we feel that If there is land available such as the proposed (which adjoins and would extend the development boundary of the existing UDP for Llanerfyl) then the best use of this would be to provide a range of homes starting at a group of 2-3 bedroom terraced houses graduating up through to range of 3/4 bedroom properties with some detached properties. As part of any development for which its purpose is to extend and strengthen village life (as depicted in this application), facilities should be considered such as a community shop, bus shelter, sports pitch and play area which would encourage a merge of community involvement.

There is doubt whether there is a need for more bungalows as the numerous bungalows we have in Llanerfyl seem to be purchased again by urban downsizers moving into the area as the prices are advantageous for facilitating their retirement.

There are a number of local, predominantly welsh speaking young adults/families wishing to buy their first homes in the area who known by the council. These young adults aspire to, but just cannot afford to buy properties of the nature proposed in the village nor similar existing properties already on the market. Salaries do not dictate a borrowing of what we

estimate to be the lowest value property in the proposed development being circa £250,000 - £300,000.

We fail to see how plots 1 and 2 on the proposed plan will be 'affordable housing' being 4 bed detached houses. Potential buyers of these plots will need to have extreme cash reserves of over £200,000 available as there are no lenders who will facilitate a mortgage for a property with a local needs restriction.

To summarise Llanerfyl is a settlement where the Welsh language has been identified as being important to the social, cultural and community fabric and will be a material consideration when determining development proposals. Consequently, it is considered that housing development in the future will be in the form of infill, individual plots of which there have been/are available but have not sold, or small groups of dwellings. In order to provide local employment opportunities in the upper Banwy valley, land has been allocated for the expansion of the existing village workshops site, therefore the provision of housing for predominantly Welsh speaking young adults/families on average salaries would be appropriate.

The size and therefore the purchase prices of the proposed properties are not aimed at the market to which the applicant has aimed its application at.

2nd response

Following a unanimous vote against the amended proposed development above, Llanerfyl Community Council comment as follows:

As previously commented there are a number of 3 / 4 bed roomed properties currently on the market in the village and in surrounding villages which remain unsold. There is not a need or demand for anymore and therefore we do not support this application. We have not been presented with any evidence to the contrary.

If the applicant is in disagreement with the fact that there is not a need, we would consider an application for a single dwelling to adjoin Derwen. If this plot is successfully sold at an **affordable** price and developed by (or developed for) the target market of the applicant (i.e. generational, local, predominantly Welsh speaking young adults/families), then consideration would be given to further single applications to connect. Single applications would not have an issue with their own individual access onto the Talerddig Road as there are currently over 10 properties accessing Talerddig road in the same manner. This would also be of major benefit to PCC as it would relinquish the ongoing cost implications of the proposed 'access road' (maintenance, street lighting, etc.).

If the applicant is minded to be in agreement to the above thus proving that the true reasoning of their application is to provide local housing for local people rather than simply applying to elevate their land from agricultural to highly valuable development land ahead of changes to planning policy, then the voice of the community has been heard and accepted.

We must stress again that, as housing development in the future will be in the form of infill and individual plots, there does exist, within the village the facility for such plots to be marketed – If questioned why the owners of such areas have not submitted applications themselves, it is felt, as affirmed above, that the need is not there. (Such plots incidentally

have been available in Llanerfyl but have not sold). Therefore to side step this issue and to support the spill out of the settlement boundary is not supported by the community.

Highway Authority

The County Council as Highway Authority for the County Class III Highway, C2031

Wish the following recommendations be applied

Recommendations

1. 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 new footway and access road.
2. Prior to the occupation of any dwelling the highway works, referred to above, shall be fully completed to the written satisfaction of the Local Planning Authority and shall be retained for as long as the development hereby permitted remains in existence.
3. Prior to the occupation of any dwelling any entrance gates shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
4. The gradient of the private accesses shall be constructed so as not to exceed 1 in 15 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence
5. No other development shall commence until the access has been constructed so that there is a clear visibility splay 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 0.26 metres above ground level at the edge of the adjoining carriageway and 60 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 of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
6. Before any other development is commenced 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.
7. 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. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

8. Within 5 days from the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 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.

9. The width of the access carriageway, shall be not less than 5.5 metres 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.

10. Prior to the occupation of the development a radius of 6 metres shall be provided from the carriageway of the county highway on each side of the access to the development site and shall be maintained for as long as the development remains in existence.

11. 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.

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, 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. Within 5 days from the commencement of the development any existing means of access shall be stopped up, in materials to be agreed in writing by the Local Planning Authority and this shall be retained for as long as the development is in existence.

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

Wales & Utilities

According to our mains records we have no apparatus in the area. However Gas Pipes owned by other GT's and also privately owned may be present. 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 position of mains pipes, services and other apparatus on site before any mechanical plant is used and this information must be provided to all persons (either direct labour or contractors) working on or near gas apparatus

Environmental Health

Foul drainage

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

Construction-phase noise control

For the protection of amenity for nearby residential properties, Environmental Protection recommends the following condition for the control of construction-phase noise:

“Demolition or construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays and at no time on Sundays or Public Holidays.”

Rights of Way

- Initial response

Thank you for consulting Countryside Services on the above application.

There is a right of way at this development site. It is good to see that the plan of the existing site shows this very clearly as this is often not the case with other applications we see. The plan for the proposed development seems to show a slight change in the line of this right of way as it passes through the new dwellings. This will clearly need some conversation with Countryside Services as it may require a diversion.

As this is an outline application we assumed that there will be further discussions with Countryside Services at the detailed stage if outline permission is granted. We think it would be reasonable at that time to seek from the developer some mitigation measures to improve existing footpaths in the village and the way marking.

At this stage, without full details of how the right of way at the site will be accommodated in the new development, we are not able to comment fully on this application. Should more details be made available on this matter we would be happy to comment further.

- Second response

A Public Right of Way (Footpath 21) crosses the site of the proposed development and does not appear to have been protected on its current alignment, and would be obstructed by the proposal. Countryside Services therefore objects to the application in its present form.

The applicant/developer will need to modify the plans and/or seek a diversion of the public right of way to ensure that it is protected within the proposed development.

PCC Ecologist

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 106 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 an area of improved grassland a habitat of low ecological value. The northern and western boundaries of the proposed development site comprise areas of hedgerows habitats of high ecological value.

Having reviewed the records of protected and priority species present within 500m of the proposed development it is considered that the site lacks suitable habitat to support protected species identified in the local area, therefore it is considered unlikely that the proposed development would result in negative impacts to protected species.

The submitted plans and associated information identify that a new access is proposed for the site off Talerddig Road. In order to achieve the access and associated visibility splays it has been identified that it is proposed to remove a section of the hedgerow at the front of the site, in addition it is noted that a section of hedgerow that bisects the site will be removed to accommodate the proposed development.

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 a new hedgerow will be planted will be planted along the southern and eastern boundary of the proposed development site – the provision of new hedgerow planting to replace the sections of hedgerow that will be removed is welcomed, the length of new hedgerow planting exceeds that which would be lost as a result of the proposed development – the additional hedgerow planting is considered to provide additional benefits for biodiversity i.e. biodiversity enhancements in accordance with the requirements of Section 6 of the Environment (Wales) Act 2016. **Details of the replacement 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, shrub 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. It is also recommended that in order to ensure the safeguarding of existing hedgerows that are to be retained as part of the development a hedgerow protection plan is secured through an appropriately worded condition.**

Given the 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 commencement of development a Hedgerow Protection Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

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

Prior to 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.

Welsh Gov Transport

Advise that Welsh Government as highway authority or the A458 trunk road does not issue a direction in respect of this application

Cadw

The proposed development lies c 465m to the south east of scheduled monument MG072 Llysun Motte and Bailey. Rising ground, Intervening trees and buildings means the two sites are not inter-visible; we therefore, have no objections to the proposed development.

Our role

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

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

National Policy

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

PPW (Chapter 6 – The Historic Environment) explains that the conservation of archaeological remains is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where

nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. Technical Advice Note 24: The Historic Environment elaborates by explaining that there is a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of remains. PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, and that the effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application.

Representations

Two letters of objection have been received to the original scheme from local residents and these have been sustained for the amendment. A third letter has been received objecting to the amended scheme.

The objections and points raised are as follows:

- Too many houses have already been built in this area without due consideration of their effect on the community.
- Prior development has not contributed anything towards the prosperity of the area
- In spite of houses being built over the last few years there is no shop and no increase in the number attending the local school.
- There is only one bus service
- Previous development has not succeeded in attracting or keeping young people but rather people reaching retirement with additional pressure on health and care services which are being overwhelmed.
- A review of the effect of such development should be undertaken to determine its effect on the Welsh language culture and social life in this one of the most Welsh areas in Wales.
- There is no shop, post office or bank in the village.
- Developments such as this should go to larger villages.
- The size of dwellings proposed would make them unaffordable.
- If the current development plan is out of date and the new plan has not been adopted the application should be refused.
- The application has not been properly advertised.
- The site does not adjoin the development boundary and is a greenfield site which should be protected.
- There are still infill plots available in the village.
- The land is waterlogged in the winter.
- Access opposite the village hall car park will cause problems as this is where the bus waits for schoolchildren and drops them off at the end of the day.
- Far more children go to school in Llanfair than attend the Llanerfyl school.
- There is a lack of demand for housing in the area.

- Local needs should not just be for Welsh speakers.

Planning History

No history

Principal Planning Constraints

Public Right of Way

Principal Planning Policies

National Planning Policy

Planning Policy Wales (9th Edition, 2016)

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

Technical Advice Note 5: Nature Conservation and Planning (2009)

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

Technical Advice Note 12: Design (2016)

Technical Advice Note 15: Development and Flood Risk (2004)

Technical Advice Note 18: Transport (2007)

Technical Advice Note 20: Planning and the Welsh Language (2017):

Technical Advice Note 23: Economic Development (2014)

Welsh Government Practice Guidance: Planning for Sustainable Buildings (2014)

Welsh Government Circular 016/2014: The Use of Conditions

Welsh Office Circular 10/99: Drainage

Local Planning Policy

Powys Unitary Development Plan (2010)

UDP SP3 – Natural, Historic and Built Heritage

UDP SP5 – Housing Developments

UDP DC1-Access by disabled persons

UDP E7- Solar technologies

UDP ENV1-Agricultural land

UDP ENV2 - Safeguarding the Landscape

UDP ENV3 – Safeguarding Biodiversity and Natural Habitats

UDP ENV7 - Protected Species

UDP GP1 - Development Control

UDP GP2 – Planning Obligations

UDP GP4 - Highway and Parking Requirements

UDP GP5 - Welsh Language and Culture

UDP HP3 - Housing Land Availability

UDP HP4 – Settlement Development Boundaries and Capacities

UDP HP6 – Dwellings in the Open Countryside

UDP HP7 – Affordable Housing within Settlements

UDP HP8 – Affordable Housing Adjoining Settlements with Development Boundaries

UDP HP9 - Affordable Housing in Rural Settlements

UDP HP10 - Affordability Criteria

UDP DC13 – Surface Water Drainage
UDP RL6 - Rights of Way and Access to the Countryside
Affordable Housing for Local Needs Supplementary Planning Guidance (SPG) Approved
September 2010, Updated July 2011

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

Outside of settlement boundaries, UDP Policy HP4 applies and states that *'outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9*. Llanerfyl has a development boundary so the relevant policy is HP8 which states that favourable consideration will be given to proposals for affordable housing where sites adjoin settlements with development boundaries. The site is therefore not in accordance with the UDP policies and is considered to be a departure from the adopted plan

Reference has been made in the objections to the status of the UDP and the emerging LDP. The UDP still carries weight as the adopted plan.

Design and layout and impact upon surrounding area – landscape and visual impacts

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

Whilst design and layout are reserved and will be dealt with at a later point in time, it is relevant to consider whether the number of dwellings proposed could be appropriately developed on the site. The site is considered to have a reasonable relationship to the settlement's built form being between the village workshops and the dwelling known as Derwen and the trunk road and facing properties on the other side of the Talerddig Road. The existing hedgerow is to be largely retained and, although reserved for a later date, the landscaping of the site would assist with integration. Therefore, it is not considered that a reason for refusal on landscape and visual grounds could be sustained.

Highway access and parking requirements

UDP Policy GP4 requires adequate highway provision in terms of a safe access, visibility, turning and parking.

The local resident's comments regarding additional traffic are noted. The Highway Authority are however not objecting to the proposal subject to the placing of conditions. In light of this it is not considered that there is sufficient evidence to justify a reason for refusal.

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 latest Powys Joint Housing Land Availability Study (2016) concludes that there is 2.2 years of housing supply which is a considerable shortfall.

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.'

The JHLAS identified a significant undersupply of housing land within Powys. As mentioned above, TAN 1 confirms that the need to increase supply should be given considerable weight but only where the development would otherwise comply with development plan and national planning policies.

Sustainability:

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

Llanerfyl accommodates a school, Community centre and a garage and is served by a bus service. In light of this, it is considered sustainable for the scale of development proposed.

Economic Development:

In relation to economic development, it is considered that the potential construction of the dwellings would contribute to the economy of the local area. The development is therefore considered to have a neutral to positive impact on the local economy and jobs.

Social Cohesion

The objectors hint at potential for negative effects on social cohesion, conflict or divisions. However, given the scale of the proposed development, it is not considered that the proposal would have a significant effect on different parts of the local community, which would potentially advantage some groups and disadvantage others. It is considered that no

robust evidence has been identified that the proposed development would undermine traditional values and community culture.

The fact that approval of the application would enable the provision of two affordable housing units which could assist the aim of retaining younger, economically active members of the Community, is considered to be positive.

Welsh Language and Culture

Planning Policy Wales (PPW) notes the Welsh Governments commitment to ensuring the Welsh Language is supported and encouraged to flourish as a language of many communities all over Wales. It highlights that it should be the aim of local planning authorities to provide for the broad distribution and phasing of housing development taking into account the ability of different areas and communities to accommodate the development without eroding the position of the Welsh language. It does however also note that policies must not introduce any element of discrimination between individuals on the basis of their linguistic ability, and should not seek to control housing occupancy on linguistic grounds.

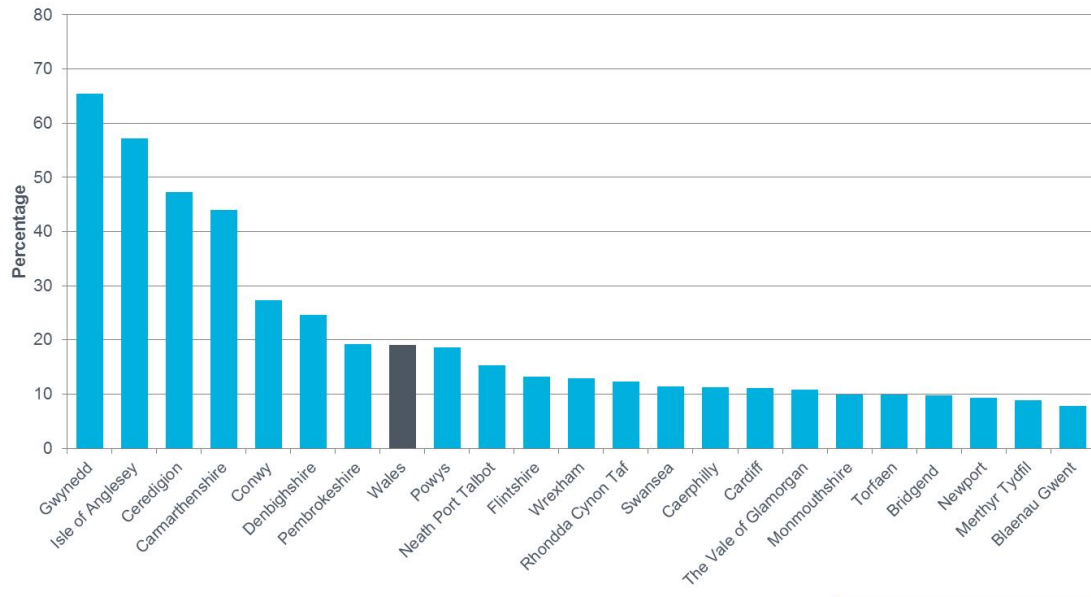
With regards to the Development Management function, PPW states as follows:

“Consideration relating to the use of the Welsh Language may be taken into account by decision makers so far as they are material to applications for planning permission. If required, language impact assessments may be carried out in respect of large developments not allocated in, or anticipated by, a development plan proposed in areas of particular sensitivity or importance for the language. Any such areas should be defined clearly in the development plan. Decisions on applications for planning permission must not introduce any element of discrimination and should not be made on the basis of any person(s) ‘linguistic ability’.”

Policy GP5 of the Powys UDP states that within identified settlements proposals will only be acceptable where developers can demonstrate that they have taken full account of the importance of the Welsh Language and culture, including through the provision of an appropriate level of affordable homes. Llanerfyl is one such settlement.

The national picture and the place of Powys within it is shown below

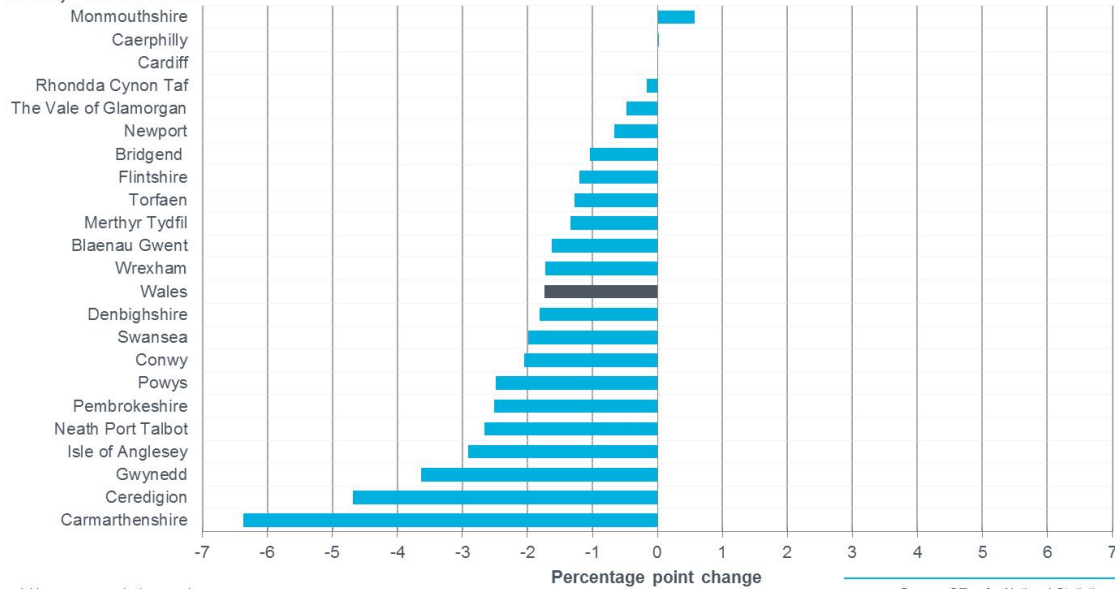
Percentage of the population able to speak Welsh according to the 2011 Census, by local authority area



welshlanguagecommissioner.wales

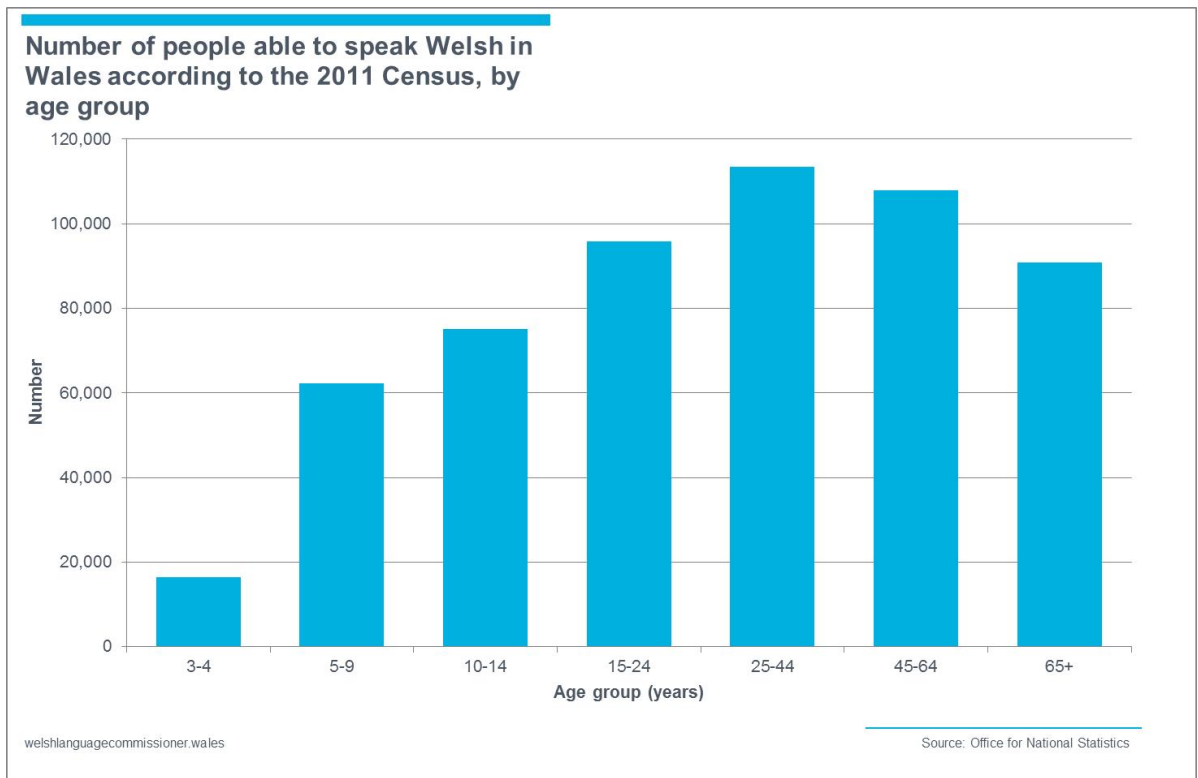
Source: Office for National Statistics

Change in the percentage of the population able to speak Welsh (percentage point), by local authority area, 2001-2011



welshlanguagecommissioner.wales

Source: Office for National Statistics



Llanerfyl is above the national and Powys average when it comes to the extent of Welsh speaking as shown in the following table and is acknowledged in UDP policy GP5 as a settlement where the Welsh Language is identified as being important to the social, cultural and community fabric. The applicant's agent has provided a section within the Planning Statement devoted to Welsh Language and Culture in which it is pointed out that there is not a serious decline in speakers of the Welsh Language and arguing that new housing will provide young families with the opportunity to live in the village.

The census data does show that there is a small decline in a modestly growing population and a heartening increase in the 3-15 age group reflecting the teaching of the Welsh language in schools

Ability to speak Welsh-Llanerfyl

Age	2011 %	2001 %	2011 Number	2001 Number
3+:	56.5	57.9	223	221
3-15:	92.1	75.3	70	55
16-64:	47.3	51.8	116	129
65+:	50.0	61.7	37	37

Number of residents aged 3 and over:

Census	Number
2011	395
2001	382

On balance, therefore, and given the element of affordable housing proposed, the impact of the development on Welsh Language and culture is likely to be neutral rather than negative.

Impact upon amenities enjoyed by the occupants of neighbouring properties

Policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties will not be unacceptably affected. The Powys Residential Design Guide provides guidance on overshadowing and privacy. The location of the site and the indicative layout demonstrate that there will be no unacceptable negative impact on the amenities of existing dwellings.

Foul and surface water disposal

It is proposed to dispose of foul sewage to the mains system which is the preferred method of disposal within planning policy. It is recommended that a condition is attached to any consent granted to ensure a satisfactory means of drainage in accordance with UDP Policy DC10.

Impact upon nature conservation

The Council acknowledges the need to protect biodiversity from adverse development through careful monitoring, maintenance and the protection of habitats and species worthy of conservation. Therefore, the nature conservation policies in the UDP seek to safeguard and enhance biodiversity, and these objectives are also echoed in national policy (TAN5 and Planning Policy Wales).

The County Ecologist has confirmed that there are no adverse biodiversity impacts associated with the proposal and has recommended conditions. Detailed landscaping would be considered at the reserved matters stage and as such this would provide biodiversity enhancements in accordance with UDP Policy ENV3.

Impact on Rights of Way

Although, in a second response, the Rights of Way Officer has objected to the minor alteration to the footpath this is considered to be a matter that can be dealt with at reserved matters stage when the final design is being considered.

Impact upon heritage assets

It has been confirmed by Cadw that there is no objection to the proposal and there are no known archaeological remains which would be affected by the development.

Loss of agricultural land

UDP Policy ENV1 provides safeguarding for the best and most versatile land. The land is not known to fall within grades 1, 2 and 3a and therefore is not considered to be of the best and most versatile agricultural land or of particular value to agriculture within the locality in accordance with the advice provided within UDP Policy ENV1.

Other Legislation

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

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.

Conditions:

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. 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 new footway and access road
5. Prior to the occupation of any dwelling the highway works, referred to above, shall be fully completed to the written satisfaction of the Local Planning Authority and shall be retained for as long as the development hereby permitted remains in existence.
6. Prior to the occupation of any dwelling any entrance gates shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
7. The gradient of the private accesses shall be constructed so as not to exceed 1 in 15 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence
8. No other development shall commence until the access has been constructed so that there is a clear visibility splay 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 0.26 metres above ground level at the edge of the adjoining carriageway and 60 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 of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
9. Before any other development is commenced 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.

10. 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. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.
11. Within 5 days from the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 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.
12. The width of the access carriageway, shall be not less than 5.5 metres 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.
13. Prior to the occupation of the development a radius of 6 metres shall be provided from the carriageway of the county highway on each side of the access to the development site and shall be maintained for as long as the development remains in existence.
14. 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.
15. 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.
16. Within 5 days from the commencement of the development any existing means of access shall be stopped up, in materials to be agreed in writing by the Local Planning Authority and this shall be retained for as long as the development is in existence.
17. No storm water drainage from the site shall be allowed to discharge onto the county highway.

18. 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 numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 2 affordable dwellings;*
- 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.*

19. The affordable dwelling 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 re-enacting 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.

20. No development shall commence until details of a scheme for the disposal of foul and surface water has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the first occupation of the dwellings hereby permitted and retained in perpetuity.

21. 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

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

23. 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.

24. Demolition or construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays and at no time on Sundays or Public Holidays.

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.
- 4-17 In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
18. In order to ensure the provision of affordable housing in accordance with Policy HP7 of the Powys Unitary Development Plan (2010) and the Affordable Housing for Local Needs Supplementary Planning Guidance (2011).
19. In order to ensure that the dwellings serve an affordable need in perpetuity in accordance with the Affordable Housing for Local Needs Supplementary Planning Guidance (SPG) (July 2011), Policies HP7 and HP10 of the Powys Unitary Development Plan (2010) and Planning Policy Wales (2016).
20. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policies GP1, DC10 and DC13 of the Powys Unitary Development Plan (2010).
21. 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.
22. 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.
23. 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.
24. In the interest of protecting the amenity of nearby dwellings in accordance with Policy GP1 of the Powys Unitary Development Plan (2010).

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.

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