

Principal Planning Policies

Planning Policy Wales (Edition 9, November 2016)

Technical Advice Note (TAN) 2: Planning and Affordable Housing (2006)

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

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

Technical Advice Note (TAN) 12 Design (2016)

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

Technical Advice Note (TAN) 23: Economic Development (2014)

Local planning policies

Powys Unitary Development Plan (2010)

SP5 – Housing Developments

SP14 – Development in Flood Risk Areas

GP1 – Development Control

GP2 – Planning Obligations

GP3 – Design and Energy Conservation

GP4 – Highway and Parking Requirements

ENV1 – Agricultural Land

ENV2 – Safeguarding the Landscape

ENV3 – Safeguarding Biodiversity and Natural Habitats

HP4 – Settlement Development Boundaries and Capacities

HP6 – Dwellings in the Open Countryside

HP10 – Affordability Criteria

HP14 – Sustainable Housing

DC11 – Non Mains Sewerage Treatment

DC13 – Surface Water Drainage

Powys Residential Design Guide (October 2004)

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

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Officer Appraisal

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.

This update report is to provide additional comments received from the Ecologist and to consider the points raised within the letter of objection.

Biodiversity

Additional information has been received from Powys County Council's Ecologist which confirms that there would not be an impact on the Afon Gwy SAC. The Ecologist confirmed that there would not be a likely impact due to the ephemeral nature of the stream (which appears to act as a grassy swale), the grass buffer between the construction site and the stream as well as the distance of 750m between the site and the SAC with no discernible permanent water pollution pathways present. The Ecologist confirmed that in this instance it was considered that there would not be a requirement to undertake a HRA.

In light of the above the proposed development complies with policies ENV3 and ENV7 of the Powys Unitary Development Plan, Technical Advice Note (TAN) 5 and Planning Policy Wales (Edition 9, November 2016).

Concerns raised by members of the Public

Functional Test – It is considered that sufficient evidence has been submitted with the application to prove that there is a functional requirement for a dwelling in this location. The applicants have indicated that a residential accommodation adjacent to the business is essential for its continued running and expansion as it will enable the applicant to invest more time in the running of the business. The functional need is principally determined by the nature and scale of the enterprise operated and the agricultural systems employed. This business operates a free range egg enterprise of some 12 000 free range eggs which has a labour requirement of 2.4 full time workers, based on standard data from Poultry Farm Management Information. The availability of supervision is necessary to ensure that the business regulations 1994 and in the case of Poultry Enterprise, the Code of Recommendation for the Welfare of Laying Hens and adhered to.

In light of the above it is considered that there is a functional requirement for a dwelling in this location within close proximity to the current enterprise.

Flooding – The issue regarding flooding has been considered within the original report. For ease of reference it is repeated below:

Policy SP14 of the Powys UDP refers to development in flood risk areas. The proposed development is within the C2 flood zone and is considered as highly vulnerable development. Policy SP14 states that highly vulnerable development and emergency services will not be permitted in C2 flood zones. Natural Resources Wales (NRW) been consulted on the proposed development. NRW initially stated that they required an updated hydrological model and an updated FCA in order to determine the depth of flooding so as to advise on the finished floor levels and confirmed from the outset that there is not a problem with flood storage in this location. NRW confirmed that the site lies partially within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Dulas within the C2 flood zone as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk.

Following the submission of a Flood Consequence Assessment (FCA) NRW were re-consulted and confirmed that they would no longer object to the proposed development subject to the attachment of an appropriately worded condition to address their concerns. The condition will ensure that the finished floor levels are set at a minimum of 218.37 metres

AOD. NRW have stated that there are no significant concerns with the outputs from the modelling exercise and are considered acceptable to support the development. NRW have recommended that the applicant register to the NRW flood warning service.

In light of the above advice received from NRW and the submitted FCA it is considered that the proposed development fundamentally complies with policy SP14 of the Powys UDP and TAN15 subject to the attachment of an appropriately worded condition.

Site Location – Given that the proposed development would replace the existing temporary mobile home and would be located to the south of the existing poultry unit. The dwelling will be finished using oak timbers and brick under a natural slate roof and therefore complement the existing character and appearance of the surrounding area and rural setting. The dwelling will lie to the south of the existing poultry unit and provide an additional screening effect to the existing poultry unit and will tie into the surrounding landscape and residential properties.

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

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

Whilst this report forms an update to the original report, it is considered that the recommendation remains the same which is one of conditional consent.

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 XX/XX/XX (drawing no's: 2016/03/07, 2016/03/08, 2016/03/06, 2016/03/05, 2016/03/02, 2016/03/01, 2016/03/09 & 2016/03/03).
3. Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 3 cars. The parking areas shall be retained for their designated use in perpetuity.
4. The mitigation and enhancement regarding bats, otters, badgers, reptiles, amphibians and nesting birds in Section 8 of the ecological report by Mid Wales Ecology dated April 2017 shall be adhered to and implemented in full.
5. A lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written Local Planning Authority approval.
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.
7. The Species List for the Landscape Planting contained within Section 8 of the ecological report by Mid Wales Ecology (April 2017) shall be implemented as approved and maintained thereafter.
8. Finished floor levels should be set at a minimum of 218.37 meters above Ordnance Datum.
9. The occupancy of the dwelling shall be restricted to:
 - a) a person solely or mainly working, or last working on a rural enterprise in the locality, or a widow, widower or surviving civil partner of such a person, and to any resident dependants; or if it can be demonstrated that there are no such eligible occupiers,

b) a person or persons who would be eligible for consideration for affordable housing under the local authority's housing policies, or a widow, widower or surviving civil partner of such a person, and to any resident dependants.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013, (or any Order revoking and re-enacting that Order) no extensions to the dwelling or alterations to the roof (including the introduction of roof lights or dormers), or the erection of garages or sheds shall be undertaken without the prior express consent of the local planning authority.

11. Within two months of occupation of the new dwelling hereby approved, the existing temporary mobile home on the site, shall be removed.

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 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.

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.

7. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

8. To protect the development from flooding in accordance with policies GP1 and DC14 of the Powys Unitary Development Plan.

9. The dwelling is proposed for a site which would not normally be permitted other than for the running of the defined rural enterprise in accordance with the requirements of policy HP6 of the Powys Unitary Development Plan.

10. In order to control further development which has the potential to have adverse effects on privacy and/or amenity in contradiction to policy GP1 of the Powys Unitary Development Plan.

11. To prevent the establishment of separate use in the interests of privacy and amenity in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.

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.

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.

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