

## Planning, Taxi Licensing and Rights of Way Committee Report

**Application No:** P/2017/0696

**Grid Ref:** 314810.6  
289750.3

**Community Council:** Kerry

**Valid Date:** 27/06/2017  
**Officer:** Rachel Mulholland

**Applicant:** Mr & Mrs Bebb, Common Road, Upper Common, Kerry, Newtown, Powys, SY16 4NY.

**Location:** Lomond, Kerry, Newtown, Powys, SY16 4NY.

**Proposal:** Outline - Residential development of 5 dwellings including replacement of an existing dwelling, formation of access, highway improvement and all associated works (some matters reserved).

**Application Type:** Application for Outline Planning Permission

### The reason for Committee determination

The application is to be determined by planning committee as it represents a departure from the development plan and is recommended for approval.

### Site Location and Description

The application site lies partly within the settlement development boundary of Kerry as defined by the Powys Unitary Development Plan (2010) with the rear section of the site falling outside of the boundary. The application site is located to the south of Kerry on Common Road. The site is to be accessed via an existing access from the C2012 county highway to the east which is to be upgraded. The site has neighbouring residential dwellings to the north, east and south with agricultural fields to the west.

This application represents a departure from the current Unitary Development Plan and seeks outline consent for the erection of five dwellings including the replacement of an existing dwelling, formation of access, highway improvement and all associated works. This outline application is made with all matters except access reserved. An indicative layout of the site and scale of the proposed dwellings are given.

### Consultee Response

#### Kerry CC

*Correspondence received 29<sup>th</sup> July 2017*

Council wishes to reiterate their response made in PCC's Consultation Pack on Candidate Sites and Community Needs made on the 7<sup>th</sup> May 2013.

Ref; CS number 662, Land at Lomond, Common Road, under the heading, Known Issues the state,

Problems for traffic at the junction of Common Road and the A489. Narrow road already carrying a large amount of traffic.

Kerry Community council also wishes to draw your attention to the following additional concerns;

- Water reclamation
- That 4 of the proposed buildings fall outside the Community Boundary.

### PCC Highways

*Correspondence received 2<sup>nd</sup> October 2017*

The Highway Authority for the Class III C2012 recommends the following conditions:

The proposed development of 5 new dwellings on the application site includes highway related infrastructure improvements that will provide a degree of benefit to the wider community. The provision of a footway will safeguard pedestrian safety though we will require amendments to the design to reflect concerns about pedestrians emerging from behind a hedge whilst attempting to cross to the opposite footway adjacent to Chestnut View. In addition, due to the difference in ground levels there may be a requirement for a retaining structure to the rear of the proposed footway. Furthermore, whilst we have noted the concerns of residents of Kerry regarding the increased use of the junction of Common Road and the class I A489, the increase in traffic through this junction from the development will not represent a significant increase in movements.

Therefore, we would recommend that the following conditions are attached to any consent that may be issued.

Prior to the occupation of any dwelling any entrance gates shall be set back at least 10 metres distant from the edge of the adjoining carriageway and 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.

The gradient of the access 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.

The centre line of the first 10 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

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 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining

carriageway. Nothing shall be planted, erected or allowed to grow on the area 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.

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.

Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

Prior to any works being commenced on site the applicant shall submit and have approved in writing by the Local Planning Authority full engineering drawings for all highway related infrastructure which shall include details of the carriageway widening, new footway and any retaining structure to the rear of the new footway.

Prior to the occupation of any dwelling all the highway works shall be fully completed to the written satisfaction of the local planning authority.

Prior to the occupation of any dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 10 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,

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

#### PCC Building Control

*Correspondence received 14<sup>th</sup> July 2017*

Please be aware that the proposed development will require Building Regulations approval.

#### Wales and West Utilities

*Correspondence received 24<sup>th</sup> July 2017*

Wales & West Utilities acknowledge receipt of your notice received on 12.07.2017, advising us of the proposals for:

Lomond, Kerry, Newtown, Powys, SY16 4NY

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

### Severn Trent Water

*Correspondence received 13<sup>th</sup> July 2017*

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

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

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

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

### PCC Affordable Housing

*Correspondence received 12<sup>th</sup> July 2017*

Applications for 5 or more dwellings should provide for 30% affordable housing provision, depending on the outcome of Planning Authorities recommendations in respect of this application, it would be appropriate for us to discuss such provision with the applicant. Also, the following guidelines for affordable housing provision will need to be adhered to:

- All Affordable units will have to be constructed to Welsh Government Design Quality Requirements which include all of the Lifetime Homes and Secured by Design Standards.
- All units will have to meet the floor areas specified in Powys County Council's Affordable Housing Supplementary Planning Guidance.
- The Design Quality Requirements will be those current at the time of the detailed planning application.
- All completed Affordable units that are being sold must reflect local incomes to the local area and shall be bound by the Affordable Housing policies as detailed in the Affordable Housing for Local Needs Supplementary Guidance sections HP7, HP8 or HP9 sites.

*Correspondence received 6<sup>th</sup> October 2017*

I can confirm we are happy to accept the provision of one affordable dwelling as part of this scheme, subject to the provisions referred to in my earlier consultation response.

PCC Ecologist

*Correspondence received 4<sup>th</sup> August 2017*

I have reviewed the proposed plans, streetview images and site photographs of the proposed site for the developments and surrounding habitats as well as local records of protected and priority species and designated sites within 500m of the proposed development.

The data search identified 84 records of protected and priority species within 500m of the proposed development – no records were for the site itself.

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

The proposed site for development is an area of improved grassland, hedgerows and scattered mature trees.

The well-established hedgerow boundary along with the trees noted on site could potentially form part of a corridor of habitat of high ecological value.

No ecology information has been submitted as part of the application.

**Habitat Phase 1 and Protected Species Survey**

An extended Phase 1 habitat survey will need to be undertaken to identify the habitats present on and adjacent to the site and potential to support protected species as well as the presence of invasive non-native species.

Therefore it is considered that there is insufficient information with regard to potential impacts to protected or priority species and habitats to determine this application. Further information is required to be submitted prior to determination of the application.

The ecological assessment should evaluate the potential impacts of the proposed developments on protected and/or notable species, such as species of conservation concern and locally important species listed in the Powys BAP.

It is important to note that further surveys following National guidelines at the appropriate time of year maybe be required for any species that are found or have potential to be present. These surveys will need to be carried out and results and any mitigation measures proposed submitted to the LPA prior to determination of the planning application. Mitigation and compensation strategies will be required for any impacts upon protected species and loss of habitat.

If any mitigation and/or compensation strategies proposed for the development, full details must be provided with the planning application and where appropriate clearly illustrated on the proposed plans.

As the proposed development involves demolition of the existing dwelling at the site.

The existing dwelling that is proposed to be demolished as part of the development should be given consideration to support roosting bats – bats being a European Protected Species.

Having reviewed available photographs of the building affected by the proposals it is considered that there may be potential for bats to be present and affected by the proposed development. Bat roosts are often associated with roofs, both internally using the loft void and externally, particularly utilising suitable roosting opportunities associated with the ridge and edges of the roofs, as well as features associated with gable ends including hanging tiles.

Therefore, further information to enable assessment of the building that will be demolished for its bat roost potential and the potential for any impacts is required, this could take the form of –

- A preliminary bat assessment by a suitably qualified and experienced ecologist

If the preliminary bat roost assessment identifies potential bat roosting opportunities and/or actual bat roosts that will be affected by the proposals then further bat survey work will be required.

Bat activity surveys will need to be undertaken in accordance with Powys County Council's planning application guidance note (Powys Bat Survey Guidance 2009) and the Bat Conservation Trust's Bat Surveys for Professional Ecologists – Good Practice Guidelines 3rd Edition, 2016. Therefore, the survey should be undertaken by suitably licensed and qualified ecologists and comprise a thorough internal and external inspection and three activity surveys; two dusk surveys and a dawn survey during the recognised activity season May – September, the surveys should be spread throughout the activity season (as far as reasonably possible to do so) to allow a broad picture of any bat roost use of the site to be developed. Where deviations from the standard guidelines are considered to be necessary, full justifications for the methods used will be required.

If bats are found to be using the building for roosting purposes and there is potential for the roost to be destroyed or disturbed i.e. an offence is likely to be committed a European protected species licence would be required to allow the works to proceed, as part of the planning process the Local Planning Authority must establish whether the three tests as defined by the Conservation of Habitats and Species Regulations 2010 (as amended) have been met prior to determining the application. If the Wildlife Licensing Unit at Natural Resources Wales (NRW) is also happy that these Tests have been satisfied, then an EPS development licence can be granted.

The three tests that must be satisfied are:

1. That the development is “in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment”.
2. That there is “no satisfactory alternative”
3. That the derogation is “not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range”

In order to address the 3rd test appropriate mitigation would need to be identified. The proposed mitigation will need to be located in a suitable location and appropriate to the species identified. Mitigation details need to be clearly illustrated on the architectural plans and must provide sufficient detail to enable them to be subject to a planning condition/s106 agreement.

Ecological reports submitted to support a planning application should include the required information identified in Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009).

The applicant should be mindful that in accordance with Powys County Council's duty under Part 1 Section 6 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity IDCG, as part of the planning process Powys should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.

Details of ecological consultants working in Powys can be found at <http://www.cieem.net/members-directory> (please note this is not a Powys County Council approved list of ecological consultants but lists ecological consultants who are members of the Chartered Institute of Ecology and Environmental Management). I have also attached some guidance notes regarding commissioning ecological consultants to undertake survey work.

#### Tree and Hedgerow Protection Plan

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'

Should the proposals require the removal of any hedgerows or trees to accommodate the proposed development including creation of new access or any associated works then appropriate compensation in line with the requirements of UDP Policies ENV2 and ENV6 will need to be provided.

In addition given the proximity of development works to surrounding trees and hedgerows, it is considered prudent to require information from the applicant as to how these features of biodiversity importance for wildlife will be protected during the construction period of works. This information could be secured through a planning condition, however the submission of a Tree and Hedgerow Protection Plan with a planning application would avoid the need for a pre-commencement condition requiring this information.

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

### Landscaping Planting Scheme

It is suggested in the supported planning statement that the development will provide landscaping as part of the potential development - If it is proposed to provide landscaping as part of the potential development consideration should be given to the development of a native landscape planting scheme. It is recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules.

### Lighting

Careful consideration will need to be given to any external lighting of the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area or woodland. This information could be secured through a planning condition, however the submission of a Wildlife Sensitive Lighting Plan with a planning application would avoid the need for a pre-commencement condition requiring this information.

### Biodiversity Enhancements

In accordance with Part 1 Section 6 of the Environment (Wales) Act 2016 Local Authorities are required to Maintain and Enhance biodiversity through all of its functions – this includes the planning process. It is therefore recommend that consideration is given to opportunities to incorporate biodiversity enhancements to ensure net biodiversity benefits through the proposed development. These measure could include:

- Provision of bird and bat boxes including the details of the number, type and location of these boxes;
- A wildlife buffer strip and a scheme of appropriate management of these areas, hedgerows should be retained within buffer strips and should be unlit or lighting to be directed away from the hedgerows to create dark movement corridors for nocturnal wildlife through the site;
- Provision of wildlife friendly landscape planting.

Should biodiversity enhancement measures be proposed as part of the development details of these features identified will need to be specific and detailed on submitted plans (i.e. details regarding locations, dimensions and numbers will need to be provided) and achievable.

*Correspondence received 28<sup>th</sup> November 2017*

Thank you for consulting me with regards to the additional information relating to planning application P/2017/0696.

The additional information submitted has been provided in response to a request for further survey to enable the LPA to assess the potential impacts of the proposed development to biodiversity, in particular with regards to bat species as the proposed development requires demolition of an existing dwelling.



Therefore, an Ecological Assessment Report has been undertaken to assess the potential of the development to impact to any protected species presence or habitats of ecological value, and a Bat Roost Assessment has been undertaken to assess the potential of the development to negatively impact bats – bats being European Protected Species.

I have reviewed the submitted Preliminary Ecological Appraisal and Bat Roost Assessment produced by Gerald Longley Ecological Consultants dated 02 November 2017, I consider that the survey effort employed was in accordance with National Guidelines.

The Survey consisted of a combination of desktop searches and a site visit which took place on the 2nd November 2017 to carry out an extended phase 1 habitat survey and bat roost assessment.

#### Habitats Recorded on Site

The site that is proposed to be development is approximately 0.47ha of part improved grassland with a bungalow, driveway and small garden (amenity grassland). It is noted that immediately to the west of the development is un-improved pasture grassland which forms part of the same field where the developments are proposed. Hedgerows noted on part of the north boundary, east boundary and western boundary (off site). The hedgerow on the western boundary is noted as being "important" under the ecological criteria of the Hedgerows Regulations 1997.

The improved grassland is considered to be of low ecological value. However, the hedgerow boundaries are considered to be of high ecological value as well as the two mature oak trees in the northern boundary.

#### Bat Roost Assessment of the existing Dwelling and Trees

The existing dwelling that is proposed to be demolition as part of the development is a bungalow with garage and adjacent outside toilet building. The assessment of potential bat roosting and bird nesting sites both internally and externally was undertaken. It was noted that there were potential access points for bats through holes under the eaves on the east and west walls of the bungalow where the garage joined the main dwelling. The roof is in good condition with few noted possible access points. Small section of missing mortar on the southwest hip of the roof were also noted as possible access points as well as gaps where mortar has fallen between bricks on the chimney. Access points for bats were also noted on the garage and adjacent outbuilding through open doors. The habitat surrounding the existing property was considered to be good, well connected foraging habitat for bats.

No evidence of bats were recorded during the assessment.

No bird nests were recorded on the outside or inside of the existing property – nesting birds being European Protected Species. However, there was a dead house sparrow in the garage.

The two mature Oak trees on the northern boundary of the site were recorded as having potential roosting features for bats with cracks and crevices in branches. A mature ash and

oak 'off-site' on the field boundary to the west also offered good potential roosting places for bats.

No protected species or non-native invasive species were recorded during the survey being undertaken. The site was considered to be unsuitable to support otter, water vole, dormice and reptiles. However, the hedgerow boundaries within (and offsite) offer good feeding and nesting habitat for birds. Even though no ponds were recorded on the proposed development site or within 250m the improved grassland was considered to be good foraging habitat. No amphibians were recorded during the survey, but limited potential for refuge within the hedgerow and brash was noted.

Within section 5 of the Preliminary Ecological Appraisal and Bat Roost Assessment report measures have been recommended to ensure no significant negative impacts are occurred to the species identified as possibly utilising the proposed development site. The mitigation measures include;

- Hedgerow on the northern and eastern boundary protected during the development
- New native species hedgerow to be planted on western and southern boundary
- Two Oak trees on northern boundary to be protected during development.
- Provision of bat roosting features to be incorporated in the new dwellings proposed
- Provision of house sparrow nesting boxes in the final design scheme
- Ecological principles to follow in the development;
  - Tool box talk
  - Contingency if protected species discovered during construction
  - Vegetation clearance cutting/pruning/felling to be carried out oct-feb
  - Boundaries (fences/walls) should not seal to the ground and should contain holes for wildlife movements
  - Post construction ecological survey

Given the identified recommended working measures in section 5.0 of the Preliminary Ecological Appraisal and Bat Roost Assessment I consider that the proposed developments will not result in the loss of any features of ecological importance and it is considered the proposed works are unlikely to have a significant negative impact to biodiversity in the wider area. I therefore recommend that implementation of the recommended measures are secured through an appropriately worded condition.

### Tree and Hedgerow Protection Plan

As stated within the ecological survey given the proximity of proposed development and associated works to the hedgerow boundary and trees on the development site, it is considered prudent to require information from the applicant as to how these features of biodiversity importance will be protected during the construction period of works.

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 principle 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 tree or hedgerows are identified an appropriate compensation strategy will be required, replacement tree planting would need to be identified.

Where it is necessary to remove any trees - 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 and species as well as an appropriate aftercare scheme will need to be identified – species used will need to be native and reflect the trees present in the local area.

It is therefore recommended that a Tree Replacement and Protection Plan is secured through an appropriately worded condition

#### A Landscaping Plan

If it is proposed to provide landscaping as part of the potential development consideration should be given to the development of a native landscape planting scheme. It is recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules. A Landscaping Plan could be secured through a planning condition.

#### Wildlife Sensitive Lighting Plan

Careful consideration will need to be given to any external lighting design provided through the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area. It is therefore recommended that a Wildlife Sensitive Lighting Plan is secured through an appropriately worded condition.

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

The mitigation measures in section 5 of the Preliminary Ecological Appraisal and Bat Roost Assessment report produced by Gerald Longley Ecological Consultants dated November 2017 shall be adhered to and implemented in full and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: 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 Part 1 Section 6 of the Environment (Wales) Act 2016.

Prior to commencement of development a Tree and Hedgerow Protection and 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.

Prior to commencement of development a detailed lighting design scheme to take any impacts on nocturnal wildlife into consideration 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 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 Section 6 of the Environment (Wales) Act 2016.

Prior to the commencement of development a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition.

Reason: 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 Part 1 Section 6 of the Environment (Wales) Act 2016.

Cllr K Roberts-Jones

*Correspondence received 20<sup>th</sup> July 2017*

I have a great concern regarding this application and would ask that it be a committee decision the main reason if access and highway safety.

PCC Environmental Health

*Correspondence received 21<sup>st</sup> July 2017*

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.

## **Representations**

Following display of a site notice on 21/07/2017 and publicity in the local press on 21/07/2017 nine letters of objection have been received which can be summarised as follows:

- Concerns over highway safety
- The development is partially outside of the settlement boundary for Kerry
- Sustainability of the area
- Impact on the amenities of nearby properties
- Impact on nearby property values
- Impact on views enjoyed by existing properties
- Flood risk and drainage concerns

## **Principal Planning Policies**

### National Policies

Planning Policy Wales (9th Edition, 2016)

Technical Advice Note (TAN) 1 – Joint Housing Land Availability Study (2015)

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

Technical Advice Note (TAN) 12 – Design (2016)

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

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

Technical Advice Note (TAN) 20 – Planning and the Welsh Language (2013)

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

Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

Welsh Office Circular 13/97 - Planning Obligations

### Local Policies

Powys Unitary Development Plan 2010

SP5 – Housing Developments

SP6 – Development and Transport

GP1 – Development Control

GP2 – Planning Obligations

GP3 – Design and Energy Conservation

GP4 – Highway and Parking Requirements

ENV2 – Safeguarding the Landscape

ENV3 – Safeguarding Biodiversity and Natural Habitats

ENV7 – Protected Species

HP3 – Housing Land Availability

HP4 – Settlement Development Boundaries and Capacities  
HP5 – Residential Development  
HP11 – Replacement of Habitable Dwellings  
DC3 – External Lighting  
DC8 – Public Water Supply  
DC12 – Mains Sewage Treatment  
DC13 – Surface Water Drainage  
TR2 – Tourist Attractions

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

The application site lies partly outside of the settlement development boundary identified in the Powys Unitary Development Plan (2010). 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*'. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered a departure.

### Replacement Dwelling

Policy HP11 of the Powys Unitary Development Plan sets out the criteria to be met for development proposals for replacement dwellings. The existing dwelling must be a recognised habitable dwelling and as a result of the proposal would not result in the loss of a building of special architectural and/or historic interest or local character. The existing dwelling must be substantially intact and not beyond repair. The proposed new dwelling must be on the footprint of the original dwelling or adjacent to it and not result in an increase of more than 15% of the original dwelling unless a change in its orientation, location or scale represents and improvement in planning terms.

Whilst layout and scale are not to be considered as part of this application process, it is considered that a replacement dwelling which meets the requirements of the above policy can be achieved on the site within the curtilage of the existing dwelling.

### Housing Land Supply

The departure is being justified by the applicant on the basis that Powys County Council does not have a 5 year housing land supply.

Paragraph 9.2.3 of Planning Policy Wales states that '*Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.*'

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

*"The housing land supply 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".*

Whilst TAN 1 confirms that the need to increase housing land supply should be given considerable weight, it is emphasised that this is only where the development would otherwise comply with development plan and national planning policies. Therefore, all material planning considerations are required to be taken into account as are all relevant national and local planning policies and balanced with the undersupply of housing land currently available in Powys.

### 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.

The development site is located partly within the settlement of Kerry. This is identified in the UDP as a key settlement and is served by a range of community services and facilities including two primary schools, a community centre, a shop/post office, church, public houses, playing field, bowling green, car park, public toilets, a football pitch and a bus stop with regular bus services to Newtown and Welshpool. The application site is located approximately 3 miles from Newtown.

Concerns have been raised by local objectors over the sustainability of the area and the ability of Kerry to accommodate further dwellings. Kerry is identified as a key settlement in the Powys UDP which states that the settlement has the capacity to accommodate additional development. The UDP states that on allocated sites it is estimated that 60 dwellings would be an appropriate level of growth within the plan period but that further opportunities for infill development may exist.

In light of the range of services located within walking distance of the development site, Officers consider that there is an argument to support the principle of residential development at this location given its siting partly within and adjoining the defined settlement. Therefore, the proposed site is considered to be a sustainable location for residential development of 5 dwellings.

### Affordable dwelling

The proposed development includes the provision of one affordable dwelling. As the proposal includes a provision for affordable housing, the permission will be limited such that the affordable dwelling shall not have an internal floor area greater than 130sq.m and permitted development rights will be removed.

The plans do demonstrate that the affordable dwelling (indicated as plot 2 on the indicative site layout) will have a curtilage of less than 600 square metres which accords with the provisions of the Council's Affordable Housing Supplementary Planning Guidance.

The permission will also need to be controlled via a condition to ensure that the occupancy and resale of the affordable dwelling is controlled in line with the council's affordable housing policies.

Subject to the use of such conditions, the proposal is considered to accord with planning policies HP9, HP10 and the Council's affordable housing SPG.

### Scale, Design and Appearance

Policy GP3 of the Powys Unitary Development Plan seeks to ensure that development proposals are of an appropriate design, scale, layout and of materials that shall complement or where possible enhance the character of the surrounding area.

Whilst scale, appearance, layout and landscaping are reserved matters not to be considered as part of this application process, the applicant has provided an indicative layout for the site and stated that the five dwellings proposed are to be detached properties either single storey or dormer bungalow style in construction.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating five dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

### Amenity

Policy GP1 of the Powys Unitary Development Plan states that the amenities enjoyed by the occupants of nearby neighbouring properties should not be unacceptably affected by development proposals and the proposal should complement and where possible enhance the character of the surrounding area.



The site layout is a reserved matter and not to be determined at this stage; however, the indicative site layout plan indicates that the dwelling on plot 5 to the northwest of the site will be located approximately 23 metres distant from the nearest neighbouring dwelling to the north with a garage and access lane between; the dwelling on plot 1 to the northeast of the site will be located approximately 24 metres from the nearest neighbouring dwelling to the north with the access road between; and the dwelling on plot 4 to the southwest of the site will be located approximately 20 metres from the nearest neighbouring dwelling to the south. The existing properties on Common road to the east of the site are located at distances greater than 20 metres from the proposed dwellings with the county highway between. Due to the suggested distances and positioning of the dwellings it is not considered that the proposed development will adversely affect the amenities of the neighbouring dwellings.

Concerns have been raised by local objectors over the impact of the development on nearby properties including through loss of daylight and loss of privacy. Guidance contained in the Powys Residential Design Guide has been used to assess this proposal and any potential impacts. This guidance, in relation to privacy, states:

*'The acceptable distance between front elevations should normally be determined by the character of road widths in the area.'*

*'Unless it can be demonstrated that privacy can be maintained through design, there should normally be a minimum separation of 20m between directly facing habitable room windows on rear elevations.'*

*'The minimum direct distance between habitable rooms on the main rear elevation (not subsidiary extensions) and the rear boundary, or flank wall of adjoining development, should normally be 10m or more.'*

The indicative site plan demonstrates that there is a minimum distance of 20 metres between each of the proposed dwellings and the nearest neighbouring dwellings as well as the county highway or access road between the frontages of the dwellings. As such it is considered that there will be no unacceptable impact on privacy to neighbouring properties.

The Residential Design Guide states in relation to daylight and sunlight:

*'In order to avoid unnecessary overshadowing, the height of new development should generally be set below a line of 25 degrees taken from the nearest habitable room of adjoining existing property at a height of 2m.'*

With a minimum distance of 20 metres between each of the proposed dwellings and the nearest neighbouring properties, using the 25 degree rule, the maximum height of the proposed dwellings at this 20 metre distance would be approximately 11.33 metres. Whilst it is acknowledged that the site is sloping and set at a higher level than the existing properties to the east of Common Road, the dwellings are proposed to be single storey or dormer bungalow style in construction and as such it is not considered that their height would exceed this level; however, a condition has been added to this permission requiring the submission at reserved matters stage of cross sections of the application site and finished floor levels.

This layout is for indicative purposes only and the layout of the site could be altered to increase the distances between the properties if deemed necessary at any reserved matters

application stage. The indicative layout is considered to be appropriate and would comply with policy GP1 and GP3 of the Powys Unitary Development Plan 2010.

### Landscape and Visual Impact

Policy ENV2 of the Powys Unitary Development Plan seeks to ensure that proposed development will not have an unacceptable adverse impact upon the Powys Landscape. Development proposals should be design in a way to be sensitive to the character and appearance of the surrounding area and landscape.

In terms of landscaping the submission includes the retention of the existing trees and hedgerow around the edge of the site and proposes additional planting at the plot boundaries. Landscaping is a reserved matter and therefore detailed proposals would be considered at a later date.

Whilst the site would be visible from public vantage points including the public highway and the proposal would result in a visual change in comparison to the current open space, taking into account the location opposite and adjacent to existing dwellings and structures within the area, that landscaping measures would reduce the visual impact and that the proposed scale of three dwellings, it is considered that a satisfactory detailed design could come forward to reflect the overall character and appearance of the settlement and surrounding area.

In light of the above, it is considered that the proposed development complies with policy ENV2 of the Powys Unitary Development Plan 2010.

### Highways Safety and Movement

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking. Access to the site would be gained off the C2012 via an existing access which is to be upgraded.

Concerns have been raised by local objectors and the Community Council regarding highway safety and the suitability of the junction of the C2012 (Common Road) and the A489 approximately 280 metres to the north of the site and the increase in traffic. The Highway Authority have been consulted on this application and have raised no objections to the development subject to the suggested conditions listed above regarding footways, engineering drawings, parking provision and access construction methods and materials.

The Highway Officer has considered the comments of the Community Council and local objectors and has stated that the proposed development includes highway related infrastructure improvements that will provide a degree of benefit to the wider community such as the provision of a footway. The Officer has also noted the concerns raised regarding the increased use of the junction of the C2012 and the A489 but considers that the increase in traffic through this junction from the proposed development will not represent a significant increase in movements.

In light of the Highway Officer's comments, and subject to the suggested conditions, it is considered that the proposed dwellings fundamentally comply with Policy GP4 of the Powys Unitary Development Plan 2010.

## Ecology

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).

With respect to biodiversity, specific reference is made to UDP policies ENV3, ENV4 and ENV5 which seek to maintain biodiversity and safeguard protected important sites. The Powys County Council Ecologist has been consulted on the proposed development and has provided the above comments.

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. From the data search they identified 84 records of protected and priority species within 500m of the proposed development, although no records were for the site itself. It is noted that there are no statutory or non-statutory designated sites within 500m of the application site.

It was requested by the Ecologist that a Habitat Phase 1 and Protected Species Survey be undertaken and submitted to accompany the application to identify the habitats present on and adjacent to the site and the potential to support protected species as well as the presence of invasive non-native species. Additional information was submitted by the applicant in the form of a Preliminary Ecological Appraisal and Bat Roost Assessment. These have been reviewed by the Ecologist who considers that the proposed development will not result in the loss of any features of ecological importance and is unlikely to have a significant negative impact to biodiversity in the wider area. As a result of the submitted surveys the Ecologist has no objections to the proposed development subject to conditions to secure adherence to the mitigation measures identified in the ecological appraisal as well as the submission of a Tree and Hedgerow Protection and Replacement Plan, a detailed lighting design scheme and a detailed landscaping scheme. In terms of the landscaping plan it is noted that this is a reserved matter and, as such, these details will be considered at a later stage. It is, therefore, not necessary to condition the submission of a detailed landscaping scheme on this application.

It is considered that, in light of the Ecologist's comments and subject to the inclusion of the suggested conditions excluding the landscaping scheme, the proposed development fundamentally complies with policies ENV7 of the Powys Unitary Development Plan (2010) and Technical Advice Note (TAN) 5 Nature Conservation and Planning (2009).

## Environmental Health

With regard to foul drainage it is proposed for the development site to connect to the public foul sewerage system. Given the location of the site it is considered that this is feasible. The Council's Environmental Health Officer has been consulted on this application and has no objections to this. Severn Trent Water has also been consulted and has confirmed that they have no objections to the application subject to the inclusion of a condition requiring detailed drainage plans for the disposal of foul and surface water flows.

Due to the location of the proposed development site near to other residential properties the Environmental Health Officer has also suggested a condition to control construction-phase noise control by limiting the days and hours of demolition and construction works. Subject to this condition the Officer has no objections to the development.

Concerns have been raised by local objectors regarding the proposed drainage for the site and the flood risk; however, neither the Environmental Health Officer nor Severn Trent Water have raised any concerns or objections over these issues.

In light of the above, and subject to the suggested conditions relating to the provision of drainage plans and construction-phase noise control, it is considered that the proposed development fundamentally complies with the relevant planning policy in this regard.

### 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. Technical Advice Note 20: Planning and the Welsh Language provides further advice on how the planning system considers the implications of the Welsh Language. Within the Powys UDP policy GP5 identifies settlements where the Welsh Language is important to the social, cultural and community fabric of the area. Whilst Kerry has not been identified as one of these areas it is considered that the Welsh Language is a material consideration across the County.

In the 2011 census the Kerry Ward reported that 12.9% of the population spoke Welsh. This is an increase from the 2001 census which stated that 11.6% of the population of Kerry spoke Welsh. The development of five dwellings in this settlement is considered not to have a detrimental impact on the cultural or linguistic vitality of the area.

### Public Representations

Letters of objection have been received which raised a number of concerns over the development including the matters of highways, sewerage and amenity which have been addressed in the relevant sections above.

Concerns have been raised regarding the justification for the application on the grounds of housing need, sustainability, the impact on nearby property values and loss of views to neighbouring dwellings. It is noted that loss of views and impact on property values are not planning considerations and, as such, have not been given weight when processing this application.

With regard to the concerns over sustainability and location of the site it is stated within the Powys UDP that Kerry has the capacity to accommodate additional development. It is also noted that the housing land supply is for Powys as a whole rather than individual settlements. It is also considered, after assessment of the proposals, that the application site is capable of accommodating the additional four dwellings and the replacement dwelling.

### **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 the proposal is a departure from the development plan, the Council's current lack of housing land supply carries considerable weight in favour of this development and given that the proposal would otherwise comply with development plan and national planning policies, the recommendation is one of conditional consent.

## 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. The development shall be carried out strictly in accordance with the plans stamped as approved on XXXXXX (drawing no: 16128-4)
5. Development shall not commence 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 20% of housing units/bed spaces;
  - 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) 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.
6. The affordable dwelling/s 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.
7. Upon the submission of the reserved matters referred to in conditions 1 and 2 above, plans detailing cross sections of the application site and finish floor levels of the

dwelling provided must be submitted to the Local Planning Authority. The scheme must be implemented as approved.

8. Prior to the occupation of any dwelling any entrance gates shall be set back at least 10 metres distant from the edge of the adjoining carriageway and 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 development hereby permitted remains in existence.
9. The gradient of the access 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.
10. The centre line of the first 10 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.
11. No 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 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area 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.
12. Before any 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.
13. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.
14. Prior to the commencement of development full engineering drawings for all highway related infrastructure which shall include details of the carriageway widening, new footway and any retaining structure to the rear of the new footway, shall be submitted to and approved in writing by the Local Planning Authority.
15. Prior to the occupation of any dwelling all the highway works shall be fully completed to the written satisfaction of the Local Planning Authority.
16. Prior to the occupation of any dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 10 metres from

the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

17. No storm water drainage from the site shall be allowed to discharge onto the county highway.
18. Prior to the commencement of development detailed drainage plans for the disposal of foul and surface water flows shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as agreed and maintained thereafter.
19. No demolition or construction works shall 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.
20. The mitigation measures in section 5 of the Preliminary Ecological Appraisal and Bat Roost Assessment report produced by Gerald Longley Ecological Consultants dated November 2017 shall be adhered to and implemented in full and maintained thereafter.
21. Prior to the commencement of development a Tree and Hedgerow Protection and Replacement Plan in accordance with BS:5837:2012 shall be submitted to and agreed in writing by the Local Planning Authority and implemented as approved and maintained thereafter.
22. Prior to the commencement of development a detailed lighting design scheme to take into account any impacts on nocturnal wildlife shall be submitted to and agreed in writing by the Local Planning Authority and shall be implemented as approved and maintained thereafter.

## **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. In order to ensure the provision of affordable housing in accordance with policies HP5, HP7 and HP10 of the Powys Unitary Development Plan (2010), Technical Advice Note 2 – Planning and Affordable Housing (2006) and Planning Policy Wales (2016).
6. In order to ensure the provision of affordable housing in accordance with policies HP5, HP7 and HP10 of the Powys Unitary Development Plan (2010), Technical Advice Note 2 – Planning and Affordable Housing (2006) and Planning Policy Wales (2016).
7. To safeguard the character and appearance of the area in accordance with policy ENV2 of the Powys Unitary Development Plan.
8. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
9. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.



10. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
11. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
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16. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
17. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
18. To ensure that the proposed drainage systems for the site follow best practice sustainable drainage designs and are fully compliant with regulations and are of robust design.
19. To safeguard the amenities of the locality in accordance with policy GP1 of the Powys Unitary Development Plan.
20. 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 Part 1 Section 6 of the Environment (Wales) Act 2016.
21. 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.
22. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.

## **Informative Notes**

A Building regulations application will be required for this development, please contact Building Regulations on 01874 612290.

Birds - Wildlife and Countryside Act 1981 (as amended)

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

- Intentionally kill, injure or take any wild bird
- Intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- Intentionally take or destroy the egg of any wild bird
- Intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

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

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

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

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

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

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

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Case Officer: Rachel Mulholland- Planning Officer  
Tel: 01597 827517 E-mail: [rachel.mulholland@powys.gov.uk](mailto:rachel.mulholland@powys.gov.uk)