

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

<b>Application No:</b>	P/2017/1184	<b>Grid Ref:</b>	321547.42, 298114.85
<b>Community Council:</b>	Montgomery	<b>Valid Date:</b>	<b>Officer:</b> 13/10/2017 Bryn Pryce
<b>Applicant:</b>	Miss H Broxton, Edderton Hall, Forden, Welshpool, Powys SY21 8RZ		
<b>Location:</b>	Land near Tyffos Hendomen, Montgomery, Powys SY15 6EZ		
<b>Proposal:</b>	Outline application (with some matters reserved) for erection of a dwelling, detached garage and all associated works		
<b>Application Type:</b>	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.

### Site Location and Description

This site is located off the U2677 unclassified highway within the rural settlement of Hendomen. The site is accessed via an existing private road which currently serve four other dwellings. The existing site is currently laid to grass and is located adjacent to the existing cul-de-sac access road. The site is bound by the access road to the south, existing dwelling to the east, unclassified highway to the west and agricultural land to the north.

This application seeks outline consent for the erection of a single open market dwelling with a detached garage and all associated works. The application considers the principle of residential development on the site and access to it with all other matters reserved for future consideration. An indicative layout for the site and indicative scale has been provided with the application. The site is located directly adjacent to the main cluster of dwellings that for the rural settlement of Hendomen.

### Consultee Response

#### Montgomery TC

No comments received by Development Management at the time of writing this report.

#### Highways Dept north

*Correspondence received 31<sup>st</sup> October 2017*

The County Council as Highway Authority for the County Unclassified Highway, U2077

Wish the following recommendations/Observations be applied

## Recommendations/Observations

Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom, to a maximum of 3, excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

The area of each private drive and any turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.

## Building Control

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

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

## Wales & West Utilities

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

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.

## STW

*Correspondence received 8<sup>th</sup> November 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:

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

To help us provide an efficient response please could you send all responses to [welshplanning@severntrent.co.uk](mailto:welshplanning@severntrent.co.uk) rather than to named individuals, including the STW ref within the email/subject.

### Environmental Health

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

Re: Outline application (with some matters reserved) for erection of a dwelling, detached garage and all associated works.

### **Foul drainage**

I am satisfied that the existing septic tank and soakaway system has the required capacity to accommodate this proposed development. I therefore have no objection to the application.

PCC Ecologist

Correspondence received 21<sup>st</sup> November 2017

<b>Planning Application Reference</b>	P/2017/1184
<b>Project Name / Description</b>	for Outline application (with some matters reserved) for erection of a dwelling, detached garage and all associated works at , Land near Tyffos Hendomen, , Montgomery, Powys.
<b>Consultation Deadline</b>	09/11/2017

<b>Ecological Topic</b>		<b>Observations</b>
<b>EIA Screening Opinion needed?</b>	<b>No</b>	Whilst the proposed development falls within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, it does not exceed the applicable thresholds and criteria specified in the Regulations.
<b>Ecological Information included with application?</b>	<b>No</b>	No ecological information has been submitted with the application. These observations are based on an interpretation of available aerial and street imagery, the submitted plans and historical biodiversity records provided by the Powys and Brecon Beacons National Park Biodiversity Information Service.  The proposed development is sited on a vacant building plot on an existing cul-de-sac within the rural settlement of Hendomen. It appears from aerial and street imagery that there is a hedge to the rear of the proposed development plot with improved grassland beyond. Directly adjacent to the east and south of the plot are residential properties, whilst there is a country lane bounding the western boundary of the site.
	European Species <input type="checkbox"/>	The only European species recorded within 1km of the proposed work is otters, with the closest record being within 800m from the proposed development site. Due to the lack of otter habitat within close proximity of the proposed work, it is not considered likely that this species would be affected.

<b>Protected Species &amp; Habitats<sup>1</sup></b>		<p>Although un-recorded within 1km of the proposed development, bats are likely to be present and active within the locality i.e. roosts in nearby buildings, and using adjacent hedgerows for commuting as well as foraging. If there is lighting proposed as part of the development, careful consideration should be given to maintaining a dark corridor around boundary features, such as the hedge to the rear of the plot, so that boundary features are maintained as viable commuting and foraging features.</p>
	<p>UK Species <input checked="" type="checkbox"/></p>	<p>There are historical records of birds within 1km of the proposed work including kingfisher (700m), Red kite (400m), House sparrow (70m) and Bullfinch (700m). Other records of UK species include Badgers, located 600m from the proposed development.</p> <p>It appears from aerial and street imagery that there is vegetation on the site of the proposal. Therefore it is recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive) and if work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p> <p>From the imagery available it appears that the site could support population of common reptiles species such as the slow worm and common lizard. Although, there are no historical records of this species within 1km of the proposed development. It is recommended that reasonable avoidance measures, including ecological supervision, are employed to prevent potential harm to reptiles during any vegetation clearance required to facilitate the proposed development. Suitable mitigation should also be provided to offset any losses of reptile habitat and shown in a proposed landscape design drawing. Such measures should be agreed with the LPA prior to commencement of works.</p>

	Section 7 Species & Habitats <input checked="" type="checkbox"/>	<p>The applicant should be mindful that, in accordance with Powys County Council’s duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>In addition to the species identified above, within 1km of the site there are historic records hedgehog (200m), which is a Section 7 priority species. It is therefore recommended that reasonable avoidance measures applied during site clearance to prevent impacts upon the local reptile population (discussed above) are extended to consider these species and other small animals.</p> <p>As enhancement measures it is recommended that a variety of bird and bat boxes are fixed to the proposed dwellings or garage buildings.</p>
	LBAP Species & Habitats <input type="checkbox"/>	Please see comments above.
Protected Sites	International Sites (within 1km) <input type="checkbox"/>	None within search area
	National Sites (within 1km) <input type="checkbox"/>	None within search area
	Local Sites (within 500m) <input type="checkbox"/>	None within search area
Invasive Non-Native Species	Unknown	No ecological information has been supplied with the application

<p><b>Recommendations</b></p>	<p>It is recommended that any site clearance and demolition work is timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p> <p>It is recommended that reasonable avoidance measures applied during site clearance to prevent impacts upon the local reptile population (discussed above) are extended to consider these species and other small animals.</p> <p>As enhancement measures it is recommended that a variety of bird and bat boxes are fixed to the proposed dwellings or garage buildings.</p>
<p><b>Further information required prior to determination of application</b></p>	
<p><b>Recommended Conditions</b></p>	<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>Prior to commencement of development, a Species List for the Landscape Planting, to include position of the translocated hedgerow, shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP Policies SP3 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.</p>

*Prior to commencement of development, a reptile and small animal Reasonable Avoidance Method Statement 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 ENV7 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 commencement of development, a Biodiversity Enhancement Plan to include details of the bird nest and bat boxes 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 ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the NERC Act 2006.

*Prior to commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.*

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 the Environment (Wales) Act 2016.

#### **Informatives**

#### **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



	<ul style="list-style-type: none"> <li>• intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built</li> <li>• intentionally take or destroy the egg of any wild bird</li> <li>• intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.</li> </ul> <p>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.</p> <p>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.</p> <p><b>Reptiles - Wildlife &amp; Countryside Act 1981 (as amended)</b>  All UK native reptile species are protected by law. The Wildlife &amp; Countryside Act 1981 (and later amendments) provides the legal framework for this protection.</p> <p>The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury</p> <p>All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.</p>
<p><b>Relevant UDP Policies</b></p>	<p>SP3 Natural, Historic and Built Heritage  ENV 3: Safeguard Biodiversity and Natural Habitats  ENV 7: Protected Species</p>

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<b>Document Author</b>	Eifion Glyn Davies	<b>Approved by</b>	Rhydian Roberts
<b>Version</b>	1	<b>Approved Date</b>	21/11/2017

## CADW

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

Thank you for your letter of 19 October 2017 inviting our comments on the above planning application.

### Advice

Having carefully considered the information provided with this planning application, we have no objections to the impact of the proposed development on the scheduled monuments MG013 Hen Domen Mound & Bailey Castle and MG170 Hen Domen Pre- Conquest Fields. Our assessment of the application is given below.

### 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.

## Assessment

The application area is located some 97m east of scheduled monument MG013 Hen Domen Mound & Bailey Castle and 86m east of scheduled monument MG170 Hen Domen Pre-Conquest Fields. These monuments consist of the well preserved remains of a medieval earthwork castle built over the remains of a Pre-Norman field system.

The proposed development will be clearly visible from the scheduled monument but will be seen as part of the existing development along Pen y Ffos. It will increase the amount of modern development constructed close to the scheduled monument but in our opinion the proposed development will cause slight but not significant damage to the settings of scheduled monuments MG013 and MG170.

## Cllr Stephen Hayes

*Correspondence received 23<sup>rd</sup> October 2017*

So far as I can see this application is in line with previous outline permission and I have no matters to raise.

## **Representations**

A public site notice was displayed at the site for a period of 21 days. No third party representations have been received by Development Management at the time of writing this report.

## **Planning History**

M/7829 – Demolition of old barna and erection of a new private goods vehicle repair garage – Conditional Consent

M/5055 – Private Garage/workshop – Conditional Consent

M/1996/0540 – Erection of 4 dwellings (outline) – Outline Consent

M/1997/0876 – Erection of a dwellinghouse with garage and construction of new vehicular access (Reserved Matters) - Approved

M/1998/0415 – Erection of 4 semi-detached dwelling houses (outline) - Withdrawn

## **Principal Planning Constraints**

Historic Landscapes Register Outstanding

## **Principal Planning Policies**

### National planning policy

Planning Policy Wales (9<sup>th</sup> edition, 2016)  
Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies (2015)  
Technical Advice Note (TAN) 5: Nature, Conservation and Planning (2009)  
Technical Advice Note (TAN) 12: Design (2016)  
Technical Advice Note (TAN) 23: Economic Development (2014)  
Technical Advice Note 24 – The Historic Environment (2017)

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

### Local planning policies

Powys Unitary Development Plan 2010

SP2 – Strategic Settlement Hierarchy  
SP4 – Economic and Employment Developments  
SP5 – Housing Developments  
SP6 – Development and Transport  
SP12 – Energy Conservation and Generation  
GP1 – Development Control  
GP3 – Design and Energy Conservation  
GP4 – Highways and Parking Requirements  
ENV2 – Safeguarding the Landscape  
ENV3 – Safeguarding Biodiversity and Natural Habitats  
ENV7 – Protected Species  
ENV17 – Ancient Monuments and Archaeological Sites  
HP3 - Housing Land Availability  
HP4 - Settlement Development Boundaries and Capacities  
HP5 - Residential Development  
HP6 - Dwellings in the Open Countryside  
HP9 - Affordable Housing in Rural Settlements  
HP14 – Sustainable Housing  
DC1 – Access by Disabled Persons  
DC3 – External Lighting  
DC11 – Non-mains Sewage Treatment  
DC13 – Surface Water Drainage  
TR2 – Tourist Attractions

Powys Residential Design Guide 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

## **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

This application site lies within the settlement of Hendomen which is classified in the Powys Unitary Development Plan 2010 as a rural settlement. The site is accessed off the U2667 unclassified highway. The proposal is for a single open market dwelling and therefore the proposed development represents a departure from the adopted Unitary Development Plan.

### 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 Powys Joint Housing Land Availability Study (2016) concludes that there is 2.2 years of housing supply.

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'.*

### Sustainability

In considering a departure from the Powys Unitary Development plan policies consideration must be given to must consider the location of the proposed development in terms of the sustainability of the development. Account should be given to the range of services and facilities available within close proximity to the site.

Hendomen is defined in the UDP as a rural settlement with very limited services and facilities. However, the rural settlement is located within close driving distance (approximately 1.5 miles) to the Key Settlement of Montgomery. Montgomery has a full range of services and facilities to include a range of shops, community centre, doctors, dentist a school and more. The UDP inset map description for Montgomery references the nearby rural settlement of Hendomen and states that the settlement would be suitable for affordable housing adjacent

to the existing built form. Given the current lack of housing land supply it is considered appropriate in this instance to consider the rural settlement of Hendomen for a single open market dwelling. Officers consider that in this case the proposed site is considered to be a sustainable location for a single open market dwelling with access to a range of services and facilities in Montgomery that is well associated with the existing built up settlement form.

In light of the above, officers consider that the rural settlement is considered to be a sustainable location for a single open market dwelling.

### 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. The indicative layout submitted with the application shows a single open market dwelling with 3/4 bedrooms with a detached garage. The design and access statement indicates that the dwelling will be between 8-16 metres in length, 7-12 metres in width and between 6.1 – 7.5 metres in height to the ridge.

No indicative details of design of the dwelling are given at this stage but it is a matter to be considered at any future reserved matters application stage. The design and access statement or planning application form doesn't give any information in terms of proposed materials at this stage.

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 a single dwelling comfortably 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.

### 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.

The proposed site is located adjacent to existing dwellings forming the rural settlement of Hendomen. It is considered that the siting of the proposed dwelling is acceptable in the proposed location. Although landscaping is not considered as part of this application process it is considered that the proposed site is well integrated within the existing rural settlement and would not have an unacceptable adverse visual impact upon the character and appearance of the 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.

### Scheduled Ancient Monument

The proposed site is located approximately 95 metres west of the scheduled ancient monument known as Hen Domen Mound & Bailey Castle (MG013) and approximately 85 metres west of the scheduled ancient monument known as Hen Domen Pre-Conquest Fields (MG170). As part of this application process CADW have been consulted on the proposal due to the close proximity to the monuments.

A response has been received from CADW offering no objections to the proposed development stating that although the development would be clearly visible from the monuments it would be seen as part of the existing built development of the existing rural settlement. CADW's conclusion is that the proposal would result in a slight but not significant damage to the setting of the two scheduled ancient monuments.

In light of the above, officers consider that the proposed development fundamentally complies with policy ENV17 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.

As part of this application process the highways authority have been consulted and no objections have been raised subject to the inclusion of the recommended conditions upon any grant of consent. Officers are satisfied that subject to the conditions as suggested that the proposed development is considered to have an acceptable access.

In light of the highways officers comments it is considered that the proposed dwellings fundamentally comply with Policy GP4 of the Powys Unitary Development Plan 2010.

### Drainage

Policy DC13 of the Powys Unitary Development plan seeks to ensure that development proposals should provide adequate provisions for land drainage and surface water disposal. Development should not give rise to unacceptable on or off site flooding. Policy DC11 seeks to ensure that the adequate provision for foul sewerage can be provided on site via the public foul sewerage system where possible or via a private sewage treatment system.

As part of this application process the council's Environmental Health Officers have been consulted who have raised no objection to the scheme as it is to be served by an existing septic tank facility and drainage field that currently serves an existing dwelling adjacent to the site. Environmental health officers are satisfied that the existing system has capacity to support the additional dwelling. No objections have been received from Severn Trent in respect of the proposed development.

Officers consider that the proposed development fundamentally complies with policy DC11 and DC13 of the Powys Unitary Development Plan 2010 in respect of foul and surface water drainage.



## Ecology and Biodiversity

As part of this application process our county ecologist has been consulted and has provided comments on the application. No objections have been raised by the ecologist to the proposed development subject to the inclusion of the suggested conditions. Officers consider that not all recommended conditions are appropriate to be attached to any grant of consent at this outline stage as some of the matters relate to landscaping which is to be considered at any future reserved matters application stage.

In light of the above and comments received, subject to the suggested conditions officers consider that the proposed development fundamentally complies with Policy ENV7 of the Powys Unitary Development Plan 2010.

## **Other Legislative Considerations**

### Crime and Disorder Act 1998

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

### Equality Act 2010

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

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

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

### Planning (Wales) Act 2015 (Welsh language)

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

## Wellbeing of Future Generations (Wales) Act 2015

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

### **Recommendation**

Having carefully considered the proposed development, Officers consider that the proposal broadly complies with planning policy. 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. The development shall be carried out strictly in accordance with the plans stamped as received on 13th October 2017 (drawing no's: --/17/01, --/17/02, --/17/03).
5. Before any other development commences 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.
6. Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom, to a maximum of 3, excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

7. The area of each private drive and any turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.
8. Prior to commencement of development, a reptile and small animal Reasonable Avoidance Method Statement shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
9. Prior to commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written Local Planning Authority approval.

### **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 the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
6. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
7. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
8. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV7 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.
9. 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.

### **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.

#### Reptiles - Wildlife & Countryside Act 1981 (as amended)

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

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

All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.