

Technical Advice Note (TAN) 24 – The Historic Environment (2017)

Local planning policies

Powys Unitary Development Plan (2010)

SP1 – Social, Community and Cultural Sustainability
SP3 - Natural, Historic and Built Heritage
SP5 – Housing Developments
SP14 - Development In Flood Risk Areas
GP1 – Development Control
GP3 – Design and Energy Conservation
GP4 - Highway and Parking Requirements
HP1 – Shire Housing Allocations
HP3 – Housing Land Availability
HP4 - Settlement Development Boundaries and Capacities
HP5 – Residential Developments
HP6 – Dwellings in the Open Countryside
HP8 – Affordable Housing Adjoining Settlements with Development Boundaries
ENV 2 - Safeguarding the Landscape
ENV 3 - Safeguarding Biodiversity & Natural Habitats
ENV 4 - Internationally Important Sites
ENV 5 - Nationally Important Sites
ENV 7 - Protected Species
ENV 8 - Tree Preservation Orders
ENV 14 - Listed Buildings
ENV 17 - Ancient Monuments & Archaeological Sites
ENV 18 - Development Proposals Affecting Archaeological Sites
DC11 – Non-mains Sewage Treatment
TR3 – Tourist Attractions and Development.

Powys Residential Design Guide (October 2004)

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

Officer Appraisal

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Additional Information received

The additional comments from Llanigon Community Council are noted and do not alter the recommendation as set out in the original report.

Additional Condition

It is considered appropriate to remove permitted development rights in this instance in order to restrict future extensions upon the consented dwellings. It is considered that the removal of permitted development rights will ensure that extensions are retained outside of the C2 flood zone, which is a small corner of the development site.

Other Legislative Considerations

Crime and Disorder Act 1998

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

Equality Act 2010

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

Having due regard to advancing equality involves:

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

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

Planning (Wales) Act 2015 (Welsh language)

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

Wellbeing of Future Generations (Wales) Act 2015

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

accordance with the sustainable development principle through its contribution towards the well-being objectives.

Recommendation

Whilst this report forms an update to the original report, it is considered that the recommendation remains the same as set out in the original report with the additional condition removing permitted development rights.

Conditions

1. Details of the access, 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 XX/XX/XX (drawing no's: 1500/PLN/01, 1500/S/01 & Site Location Plan).
5. The Reasonable Avoidance Measures / Precautionary Method Statement for Great Crested Newts by Europaeus Land Management Services dated 13th December 2017 shall be adhered to and implemented in full.
6. The Landscaping Scheme specifications and aftercare measures identified in Drawing Number 1500/PLN/01 shall be adhered to and implemented in full.
7. Prior to the commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted to and approved in writing by the Local Planning Authority.
8. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
9. All works and ancillary operations which are audible at the site boundary shall be carried out only between the following hours:

0800 - 1800 hrs Monday to Friday

0800 - 1300 hrs Saturday

At no time on Sunday and Bank Holidays

Deliveries to and removal of plant, equipment, machinery and waste, including soil, from the site must also only take place within the permitted hours detailed above.

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

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013, (or any Order revoking and re-enacting that Order) no extensions to the dwelling(s) or alterations to the roof (including the

introduction of roof lights or dormers), or the erection of garages or sheds shall be undertaken without the prior express consent of the Local Planning Authority.

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. To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
6. To comply with Powys County Council's UDP Policies SP3 and ENV2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
7. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
8. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.
9. To safeguard the amenities of the locality in accordance with policy GP1 of the Powys Unitary Development Plan.
10. To safeguard the public sewerage system and reduce the risk of surcharge flooding and in accordance with policies GP1 and DC13 of the Powys Unitary Development Plan.
11. In order to control further development which has the potential to have adverse effects on privacy and/or amenity in contradiction to policy GP1 of the Powys Unitary Development Plan.

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.

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

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