

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

<b>Application No:</b>	P/2017/1333	<b>Grid Ref:</b>	319238.82, 299832.5
<b>Community Council:</b>	Berriew	<b>Valid Date:</b>	<b>Officer:</b> 15/11/2017 Bryn Pryce
<b>Applicant:</b>	N Freeman, Dyffryn Industrial Estate, Severn Fast Fit, Newtown Powys		
<b>Location:</b>	Oakleigh, Refail, Berriew Powys SY21 8AJ		
<b>Proposal:</b>	Outline: Erection of single dwelling, upgrade of sewerage treatment plant and 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 and is recommended for approval.

### Site Location and Description

This site is located off the A483 trunk road and access via a private road within the village of Refail. The site is located on land adjacent to the property known as Oakleigh. The existing site is currently used as agricultural grazing land and has some areas of hardstanding. The site is bound by agricultural grazing land and post and wire fencing.

This application seeks outline consent for the erection of a single open market dwelling, upgrade of the existing sewerage system and associated works. The application is submitted in outline form with all matters reserved for future consideration. This site is located outside of the settlement boundary of Refail and therefore represents a departure from the Unitary Development Plan 2010.

### Consultee Response

Berriew CC

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

The Council has no objection to the application.

*Correspondence received 26<sup>th</sup> November 2017*

The Council approves the application subject to a Local Needs restriction being put in place.

## PCC Highways

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

The County Council as Highway Authority

### **Wish the following recommendations/Observations be applied Recommendations/Observations**

In the interests of highway safety.

Whilst the Highway Authority do not object to the principle of development, any detailed application should include full access details which should include access surfacing, radii, width, gradient, drainage and the internal road should be constructed to adoptable standard.

The applicant should note that upon the issuing of Building Regulations that the Highway Authority will serve Notice under S.219/220 of the Highways Act 1980, requiring monies to be deposited prior to any works commencing on the development site.

## PCC Building Control

*Correspondence received 22<sup>nd</sup> November 2017*

Building Regulations application required.

## Wales and West Utilities

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

We enclose an extract from our mains records of the area covered by your proposals together with a comprehensive list of General Conditions for your guidance. This plan shows only those pipes owned by Wales & West Utilities in its role as a Licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned pipes may be present in this area. Information with regard to such pipes should be obtained from the owners. The information shown on this plan is given without obligation, or warranty and the accuracy thereof cannot be guaranteed. Service pipes, valves, syphons, stub connections, etc., are not shown but their presence should be anticipated. No liability of any kind whatsoever is accepted by Wales & West Utilities, its agents or servants for any error or omission.

Wales & West Utilities has pipes in the area. Our apparatus may be affected and at risk during construction works. Should the planning application be approved then we require the promoter of these works to contact us directly to discuss our requirements in detail before any works commence on site. Should diversion works be required these will be fully chargeable.

You must not build over any of our plant or enclose our 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.

## PCC Environmental Health

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

Re: Erection of single dwelling, upgrade of sewerage treatment plant and associated works.

### **Foul drainage**

The proposal, based on previously submitted percolation test results for a recent application (P/2017/0318), is to install a new shared package sewage treatment plant and drainage field with design capacity for up to five dwellings. Environmental Protection has no objection to this application.

## PCC Ecologist

*Correspondence received 7<sup>th</sup> December 2017*

Thank you for consulting me with regards to planning application P/2017/1333 which concerns an outline application for the erection of single dwelling, upgrade of sewerage treatment plant and associated works at Oakleigh Refail, Berriew, Powys.

I have reviewed the proposed plans submitted with the application as well as aerial images of the site and surrounding habitats, local records of protected and priority species and designated sites within 500m of the proposed development.

The data search identified 50 record of protected and priority species within 500m of the proposed development, no records were for the site itself. Records identified within 500m of the site included floating water-plantain, otter, grass snake, bat species and Environment (Wales) Act 2016 Section 7 list bird species.

The following statutory designated sites are present within 500m of the proposed development:

- Montgomery Canal SAC/SSSI

These designated sites are located along the western boundary of the site of the proposed development, given the proximity of the proposed development to the Montgomery Canal SAC the potential for the construction and operation phases of the development to result in a Likely Significant Effect to the Montgomery Canal SAC and/or it's associated features has been considered.

Having reviewed the information provided by the applicant it has been determined that the proposed development would not result in a likely significant effect to the Montgomery Canal SAC and/or it's associated features – I have attached a copy of the Screening Assessment for your records.

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

The site of the proposed developments comprises an area of improved grassland and an area which has already been excavated for other development purposes. These habitats present are considered to be of low ecological importance. However the development

boundary of trees and hedgerow on the western boundary is considered to be of moderate ecological value.

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

As such I recommend that a Tree and Hedgerow Protection Plan is secured through an appropriately worded condition, where it is necessary to remove any trees or hedgerow this plan will need to identify appropriate compensation planting for the loss of these features to maintain the important foraging or commuting features – 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.

**It is recommended that a Tree and Hedgerow Protection Plan is secured through an appropriately worded condition.**

It is noted that the proposed plans and associated Design and Access statement indicate the provision of landscaping i.e. hedgerow planting around the boundaries of each dwelling as part of the proposed development. The provision of landscaping is welcomed, it is recommended that species used in landscaping are native (in accordance with UDP policy GP1) this would also serve to provide biodiversity enhancements in accordance with the requirements of Section 6 of the Environment (Wales) Act 2016. **It is recommended that a detailed landscaping scheme is secured through an appropriately worded condition.**

Given the relatively rural location of the proposed development careful consideration will need to be given to any proposed external lighting design within the detailed design of the development to minimise impacts to nocturnal wildlife commuting and foraging in the local area. **It is recommended that a planning condition securing a wildlife sensitive lighting scheme is secured through an appropriately worded condition.**

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

*Prior to commencement of development a 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 the commencement of the development a detailed Landscaping and Management Plan shall be submitted to and agreed with the Local Planning Authority and shall be implemented in the first planting season of the following occupation of the development. The Plan shall include the use of native species, details of the planting specification – the species, sizes and planting densities – and a timetable for implementation and future management to ensure good establishment and long-term retention*

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

*No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.*

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3, ENV5 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

## NRW

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

Thank you for consulting Natural Resources Wales (letter dated 22/11/2017) regarding the above.

NRW does not object to the proposal but would like to raise the matters detailed below

### **Protected Sites**

The development site is located 30m from the Montgomery Canal which is a Special Area of Conservation. We therefore advise that the proposal may have implications for the Montgomery Canal SAC and, as part of any planning application submitted the LPA will need to carry out a test of likely significant effects under regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended).

We remind you that the competent authority, for the purposes of the 2010 Regulations must not normally agree to any plan or project unless they are sure beyond reasonable scientific doubt that it would not adversely affect the integrity of the SAC.

Without prejudice to the assessment of the LPA, provided that;

- all construction activity is confined within the site boundary
- a pollution prevention plan is followed during construction
- appropriate permits for discharge of foul water are obtained
- the proposal is not likely to have a significant effect on the SAC.

## **Foul Drainage**

The proposed foul drainage system to be used for this development is for a minimum of 25 people to ground. The current exemption for the disposal of treated sewage effluent to ground registered at Oakdale would not meet the criteria for the proposed discharge activity. The proposed discharge would not be exempt from Environmental Permitting and connection to foul sewage/ an environmental permit for the discharge to ground would be required. The proposed property is within approximately 400m of a sewered area (30 m for a single property which increases proportionally where there are multiple premises requiring foul drainage). If it is feasible to connect to foul sewer then an environmental permit would not be granted. The applicant should discuss this with the sewage undertaker for the area (Severn Trent Water Ltd).

Further information can be found in NRW Guidance for environmental permit applications: Part B6.5 – Discharging treated sewage effluent up to 15 cubic metres a day into ground.

<http://naturalresourceswales.gov.uk/permits-and-permissions/water-discharges/discharges-to-surface-water-and-groundwater/apply-for-a-new-bespoke-permit/?lang=en>

## **Pollution Prevention**

Due to the proximity of the Montgomery Canal SAC, appropriate pollution prevention measures must be in place (Pollution Prevention Plan), to ensure that the water environment is not polluted during the construction phase. When working near watercourses, work must be carried out in a manner so as not to cause pollution of controlled waters. It is an offence under Regulations 38 of the Environmental Permitting Regulations 2010 to cause or knowingly permit a water discharge activity.

Should any pollution or discolouration become apparent, work must stop and working practises be reviewed in consultation with Natural Resources Wales. All works at the site must be carried out in accordance with GPP5 and PPG6 'Works in, near or over watercourses' and 'Working at construction and demolition sites' which is available at:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

Any waste excavation material or building waste generated during the development must be disposed of satisfactorily in accordance with duty of care requirements under section 34 of the Environmental Protection Act 1990. The waste shall be transported using registered waste carriers to suitably permitted or exempt sites. Waste Transfer notes shall be kept for each load for a minimum of 2 years.

The importing of inert waste onto the site for storage or use in construction, maintenance or improvement works, for example hardcore, soils, must be undertaken in accordance with the Environmental Permitting Regulations 2016.

### **Protected Species**

NRW has not considered European Protected Species(EPS) because the application does not appear to include an EPS report. Please consult NRW again if an EPS report identifies the presence of EPS.

NRW has multiple records of Great Crested Newts within 1km radius of the proposal and the site appears to have suitable terrestrial habitat for this species. The proposed dwelling is also within 100m of a pond.

### **Scope of NRW Comments**

Our comments above only relate specifically to matters that are included on our checklist “Natural Resources Wales and Planning Consultations” (March 2015) which is published on our website: (<https://naturalresources.wales/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

### Welsh Government Transport

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

I refer to your consultation of 22/11/2017 regarding the above planning application and advise that the Welsh Government as highway authority for the A483 trunk road does not issue a direction in respect of this application.

If you have any further queries, please forward to the following Welsh Government Mailbox [NorthandMidWalesDevelopmentControlMailbox@Wales.GSI.Gov.UK](mailto:NorthandMidWalesDevelopmentControlMailbox@Wales.GSI.Gov.UK)

### Canal and River Trust

*Correspondence received 11<sup>th</sup> December 2017*

Thank you for your consultation.

Glandŵr Cymru, the Canal & River Trust in Wales, cares for Wales’ historic canals, made up of the Swansea, Llangollen, Montgomery and Monmouthshire & Brecon Canals. Our canals perform many different functions and are a haven for people and wildlife and a national treasure. We are a statutory consultee in the development management process.

Having reviewed the application consultation our substantive response under the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, as amended.

Based on the information available we have **concerns** relating to the lack of ecological assessment.

The site is adjacent to the Montgomery Canal which is designated as a Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC), however no ecological investigation or survey appear to have been undertaken, consequently it is not known whether or not the development would have an impact on these designations. Equally, without such investigation, it is not possible to ascertain the extent to which mitigation may be necessary to ensure that the adjacent canal is adequately protected during and after development.

Given the above designations we are surprised that at Section 6 of the application form it is indicated that there are no designated sites, important habitats or other biodiversity features on or adjacent to the site or any protected and priority species. The application details do not appear to acknowledge the designation or the importance of the adjacent canal.

In the absence of this we would have concerns relating to the potential for pollution or run-off during construction and ongoing occupation which may adversely impact the water quality or result in contamination of the canal, which in turn would have an adverse impact on the statutory designations. Any impacts on boundary habitats would also need to be considered and addressed.

In light of the above, we consider that it is reasonable to request that an ecological survey is undertaken before the application is determined. Depending on the findings of the survey and assessments then appropriate consideration of, and mitigation against potential impacts on the designated sites would need to be addressed directly with Natural Resources Wales as the regulator.

For Glandŵr Cymru to effectively monitor our role as a statutory consultee, please send me a copy of the decision notice.

If you have any queries please contact me, my details are below.

## **Representations**

No third party responses received by Development Management at the time of writing this report.

## **Planning History**

P/2017/0318 - Full: Erection of 2 dwellinghouses with detached garages, installation of new septic tank for plot 2 only and all associated works – Conditional Consent

P/2016/0399 - Erection of an affordable dwellinghouse, detached garage, installation of septic tank and all associated works - CC

P/2015/1113 - P/2015/1113 - Erection of affordable dwelling and detached garage and installation of a septic tank - WITHDRAWN

P/2012/0442 - Erection of a local needs dwelling - CC



M/2002/0055 - Change of use of land

M2005/0358 - Erection of dwelling and installation of sewage treatment - Refused 11/5/05

## **Principal Planning Constraints**

SSSI

Special Area of Conservation

## **Principal Planning Policies**

### National Planning Policy

Planning Policy Wales (9th Edition, 2016)

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

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

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

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

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

### 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

GP2 – Planning Obligations

GP3 – Design and Energy Conservation

GP4 – Highway and Parking Requirements

GP5 – Welsh Language and Culture

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

HP6 - Dwellings in the Open Countryside

HP8 – Affordable Housing adjoining Settlements with Development Boundaries

HP14 – Sustainable Housing

DC1 – Access by Disabled Persons

DC3 – External Lighting

DC8 – Public Water Supply  
DC11 – Non-Mains Sewage Treatment  
DC13 – Surface Water Drainage  
TR2 – Tourist Attractions and Development Areas

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**

### 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 near to the settlement boundary of Refail (approximately 50 metres) which is classified in the Powys Unitary Development Plan 2010 as a large village. There are two existing dwellings between the settlement boundary and the proposed application site. The proposal is for a single 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 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.

Refail is defined in the UDP as a large village with two allocated sites (M188 HA1 and M188 HA2, allocated for 13 dwellings in total). The settlement itself has a range of community facilities and services. There are public transport links within walking distance of the site on the main trunk road with the Key Settlement of Berriew being a short driving distance of 0.9 miles to the north west of Refail which offers a range of facilities and services. The proposed location is considered to be a sustainable location for the scale of the development proposed.

### 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 Layout and design and access statement suggest that the proposed dwelling will be a two storey dwelling with integral garage. The proposed dwellings is to be between 6-16.5 metres in length, 8.5-15 metres in width, height to the eaves of not more than 5 metres with a height to the ridge of between 4.5-8 metres.

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.

### Agricultural Land Classification

Planning Policy Wales (PPW) paragraph 4.10 outlines national policy towards conserving Wales' Best and Most Versatile (BMV) agricultural land. Further guidance is provided in Technical Advice Note (TAN) 6, including the consultation arrangements with the Welsh Government included at Annex B. UDP policy ENV1 states that when considering proposals for development, the best and most versatile agricultural land will be safeguarded wherever possible.

The Predictive Agricultural Land Classification (ALC) Map (Wales) has been assessed as part of this application and the site in question is shown as Category 3a – which is good to moderate quality agricultural land. Despite the classification given by the above tool, the existing site is previously developed land in which a historic application for a horse stables was granted consent and was part implemented to foundation level with the surrounding land being fenced off by post and wire fencing and no longer being used for the purposes of agricultural grazing.

Given the classification of the application site and its current use and previous history, it is not considered that development on the proposed site would result in the loss of high grade agricultural land, compliant with UDP policy ENV1.

#### 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.

This proposed site is considered to be well connected to the large village of Refail being near to the built up area and existing dwellings. It is considered that the proposed site is well integrated with the existing large village and would not have an unacceptable significant 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.

#### Tourism

The proposed site is located within close proximity of the Montgomery Canal. The development would be visible from the canal, however taking into account the location being next to a residential area, the impact upon the tourist attraction of the canal is considered acceptable.

In light of the above, it is considered that the proposed development complies with policy TR2 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 authorities have been consulted and have provided comments. The proposed development is to utilise the existing access onto the trunk road and therefore the trunk road authority have not issued a direction in respect of this. PCC highways officers have raised no objection in principle to the proposed development given that access is to be determined at the reserved matters stage. However, officers are satisfied that a suitable and safe access can be achieved at the proposed site.

In light of the highways officers comments it is considered that the proposed dwelling 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 or private treatment plants.

This application includes the installation of an upgraded treatment tank and soakaway system and the applicant has provided information in respect of capacity and porosity tests for the drainage field. As part of this application process our Environmental Health officers have been consulted and they have raised no objection to the proposal with the information being submitted in support of the application being sufficient.

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. This application has been submitted in outline form with all matters reserved and officers will only include relevant conditions at this stage other matters can be dealt with at reserved matters stages.

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.

### Habitats Regulations Assessment (HRA)

This site is located within 500 metres of the Montgomery Canal SSSI and SAC and therefore must be subject to a Habitats Regulations Assessment. The county ecologist was requested to carry out an assessment of the proposed development and the likely significant effects. The HRA has been carried out by our ecologist and has screened the proposed development as no likely significant effects.

### Affordable Housing

This application seeks outline consent for a single open market dwelling outside the settlement limits of Refail. This application (P/2017/1333) is one application of two currently being considered adjacent to each other. The other application also seeks outline consent for the erection of a single open market dwelling under application P/2017/1337. These applications have been submitted by the same applicant and the land is within the applicant's ownership.

Prior to these applications being submitted another application (P/2017/0318) was submitted for two open market dwellings which was granted conditional consent at committee on a site which lies adjacent to the application site for P/2017/1337. All three sites are within the same applicant's control and none of which have yet been commenced. The sites cumulatively could be considered as one larger site accessed by the same access road and private track. The separate applications have been seen by development management to represent site splitting with the total area of the site being over 0.3 hectares which would trigger the requirement for affordable housing provision. As a result of this officers have gone back to the applicant requiring that an affordable housing contribution is made.

The applicant has confirmed that they are willing to make an affordable housing contribution in the form of a commuted sum. The council's affordable housing officer has been consulted but has yet to respond. This will be reported to member via an update report.

## **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.

In the 2011 census the Refail Ward reported that 9.5% of the population spoke Welsh. This is an increase from the 2001 census which stated that 3.7% of the population of Berriew Spoke Welsh. Officers consider that the development of two dwellings in this settlement will not have an unacceptable detrimental impact on the cultural or linguistic vitality of the area.

### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to

ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

## **Recommendation**

Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional consent.

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 received on 15th November 2017 (drawing no's: location plan, 2687.30).
5. No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.

## **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, ENV3, ENV5 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning

Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

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