

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

<b>Application Number:</b>	19/0427/AGR	<b>Grid Ref:</b>	E: 323844 N: 266394
<b>Community Council:</b>	Whitton Community	<b>Valid Date:</b>	04.04.2019

**Applicant:** Ms E Hammel

**Location:** The Slangs, Cascob, Presteigne, Powys, LD8 2NT.

**Proposal:** Erection of an agricultural barn

**Application Type:** Full Application

### The reason for Committee determination

Given the history to the application site, it was recommended that the application be determined before Members of the Planning Committee.

### Consultee Responses

<b>Consultee</b>	<b>Received</b>
PCC-(M) Highways	8th Apr 2019
Does not wish to comment on this application.	
Wales & West Utilities - Plant Protection Team	12th Apr 2019
According to our 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.	
Welsh Water	8th Apr 2019

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

We can confirm we have no objections to this application.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

C P A T

8th Apr 2019

Thank you for the consultation on this application.

The location of the barn and access to it appear to be in the same place as the previous applications for this plot 18/0667/FUL and P/2018/0173. We previously advised that the barn would partially impact PRN 2198 Twiscob Enclosure and one of the former field banks associated with it. To mitigate this impact we advised that a watching brief condition should be attached to any consent so that any archaeology impacted by the development could be recorded and excavated as required.

Given the archaeological sensitivity of the building footprint and the access in this case we would consider that prior notification is required and that the application should be dealt with by the committee. We would recommend that the following condition is attached if the application is approved:

Suggested planning condition to facilitate an archaeological watching brief:

The developer shall ensure that a suitably qualified archaeological contractor is present during the undertaking of any ground works in the development area so that an archaeological watching brief can be conducted. The archaeological watching brief must meet the standards laid down by the Chartered Institute for Archaeologists Standard and Guidance for archaeological watching briefs. A copy of the resulting report should be submitted to the Local Planning Authority and the Development Control Archaeologist, Clwyd-Powys Archaeological Trust (41 Broad Street, Welshpool, Powys, SY21 7RR Email: mark.walters@cpat.org.uk Tel: 01938 553670). After approval by the Local Planning Authority, a copy of the report and resulting archive should also be sent to the Historic Environment Record Officer, Clwyd-Powys Archaeological Trust for inclusion in the regional Historic Environment Record.

Reason: To secure preservation by record of any archaeological remains which may be revealed during ground excavations for the consented development.

PCC-Built Heritage Officer

7th May 2019

RE: 19/0427/AGR Erection of an agricultural barn |The Slangs Cascob Presteigne Powys LD8 2NT

Recommendation - no objections to the building as illustrated on the submitted plans however for the avoidance of doubt I would maintain my objections to the buildings as erected which whilst not part of this application it is not clear if the proposed building is a replacement or an additional building.

Designations

Scheduled Ancient Monuments

RD146 Twiscob Moated Site

Listed Buildings

Church of St Michael Grade II\* Cadw ID 9079 included on the statutory list on 24 October 1951

Rectory House Cadw ID 8794 included on the statutory list on 24 October 1951

Telephone call box Cadw Id 9087 included on that statutory list on 16 March 1992

The Schoolhouse Cadw ID 9080 included on that statutory list on 16 March 1992

Policy Background

The advice has been given with reference to relevant policies, guidance and legislation

The Planning (Listed Buildings and Conservation Areas) Act 1990

Planning Policy Wales 9th edition 2016

Conservation Principles published by Cadw

TAN24

Managing Change to Listed Buildings in Wales - Annexe to TAN24

Setting of Historic Assets in Wales - Annexe to TAN24

Heritage Impact Assessments - Annexe to TAN24

Historic Environment Records

Local Development Plan

Strategic Policy SP7

DM13 Design and Resources Local Development Plan Themes and Objectives;

Theme 4 - Guardianship of natural, built and historic assets

LDP Objective 13 - Landscape and the Historic Environment

Comments

I note the Scheduled Ancient Monument RD146 Twiscob Moated Site however as Cadw are the consultee in respect of the setting of Scheduled Ancient Monuments I shall defer consideration of the setting of RD146 if within the required distance for consultation to them and my comments are in respect of the setting of listed buildings only.

I am mindful of the advice in Sections 66 of the Planning (Listed Buildings and Conservation areas) Act 1990, which require authorities considering applications for planning permission or listed building consent for works which affect a listed building to have special regard to certain matters, including the desirability of preserving the setting of the building. The setting is often an essential part of a building's character especially if a park, garden or grounds have been laid out to complement its design or function. Also, the economic viability as well as the character of historic buildings may suffer and they can be robbed of much of their interest and of the contribution they make to townscape or the countryside if they become isolated from their surroundings, e.g. by new traffic routes, car parks, or other development."

However, I would also refer to more recent guidance in paragraph 6.10 of Planning Policy Wales 10th edition 2018 which states, " For any development proposal affecting a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses."

Section 6.1.9 of PPW 10 advises that " Any decisions made through the planning system must fully consider the impact of the historic environment and on the significance and heritage values of individual historic assets and their contribution to the character of place"

Section 6.1.7 of Planning Policy Wales 10th edition requires that " it is important that the planning system looks to protect, conserve and enhance the significance of historic assets. This will include consideration of the setting of an historic asset which might extend beyond

its curtilage. Any change that impacts on an historic asset should be managed in a sensitive and sustainable way"

Decisions on planning applications and listed building and conservation area consents must be based on adequate information provided by the applicant and any action must be in proportion to the impact of the proposals, and the effects on the significance of the assets and their heritage values." Section 1.26 of TAN 24 advises that "It is for the applicant to provide the local planning authority with sufficient information to allow the assessment of their proposals in respect of scheduled monuments, listed buildings, conservation areas, registered historic parks and gardens, World Heritage Sites, or other sites of national importance and their settings"

I am aware of the previous planning application for which I raised concerns P2018/0173, and I note that there was an agricultural notification AGRI/2018/0019 which addressed the setting of this building on the listed grade II\* church. I am also aware of 18/0667/FUL for an agricultural building for which I raised no objections in my comments of 10 December 2018, which was subsequently refused by Committee. Whilst not objecting to the previous application 18/0667/FUL I expressed concern on 2 elements firstly that no indication on the extent of earthworks required to erect this building on such a sloping site. I note that this information has been submitted with this application, Secondly I also noted that no reference had been made to the other buildings on site. I previously assumed that the barn will not provide the same function as the polytunnels, but sought clarification in respect of the stables and other buildings erected adjacent to the church and would they be removed should the application be approved. I note that it is still not clear on the latest application. I note that the application suggests that the proposed building will be used for the housing of works horses during extreme weather which suggests that the current housing for the horses will be removed - however this is not clear.

I had previously objected to the previous application P2018/0173 and I would have concerns if this new building was proposed in addition to the other buildings on site. I would have no objections to the building as illustrated on the submitted plans in terms of the setting of Church of St Michael Cadw ID 9079, however for the avoidance of doubt I would maintain my objections to the buildings as erected which whilst not part of this application it is not clear if the proposed building is a replacement or an additional building.

Environmental Health

8th Apr 2019

Environmental Protection have no adverse comments to make.

Community Council

26th Apr 2019

Whitton Community Council objects to this application on the grounds that nothing has changed from the previous application 18/0667/FUL which was rejected by the Planning Committee.

Ward Councillor

15th Apr 2019

I understand that due to the history of the site Development Control is bringing this application to committee, and I, as Local Member would argue that due to the previous history of this site that the application be treated as a FUL application, therefore I request that, for the above reason that the application does go before committee.

Again as with the previous application 18/0667/FUL, the size and impact of the proposal is the same, which the committee rejected by a very strong majority, therefore, I object in the strongest possible terms to this application for the same reason as previously in that it does not comply with Policy DM4 of the LDP, and would have an unacceptable adverse effect on the valued characteristics and qualities of the Powys Landscape. The visual impact would be considerable, from the opposite side of the valley where the bridal path which runs along the historic drovers road is situated.

I would at this time request to speak at committee as Local Member, however should circumstances warrant it, I reserve the right to withdraw the "Call in" request.

## **Public Responses**

Following the display of a site notice for the period of 21 days, 11 letters of public representation in objection to the proposed development have been received at the time of writing this report.

Objections have been raised in relation to;

- Landscape impact
- Visual impact
- Location
- Scale
- Access
- Groundworks
- Neighbour Amenities
- Safeguarding the landscape
- Size of development not complying with permitted development rights
- Visual impact to neighbouring residential properties
- Size of the development in relation to the holding
- Neighbouring residential property not directly notified of application

## Planning History

App Ref	Description	Decision	Date
AGRI/2017/0089	AGRI: Erection of an agricultural building for storing of hay, straw & machinery	Refused	13th Dec 2017
P/2018/0173	Full: Erection of an agricultural barn for storage of fodder, implement and housing of 2 no.work horses	Application Withdrawn	9th Apr 2018
AGRI/2018/0019	AGRI: Erection of an agricultural building together with access to the site	Refused	30th Apr 2018
18/0119/APP	Allegation on Enforcement Notice - Without planning permission, the change of use of the land from agricultural use to permanent residential use	Refused	5th Apr 2019
18/0667/FUL	Erection of a livestock barn and formation of a new vehicular access road	Refused	18th Feb 2019

## Principal Planning Constraints

None

## Principal Planning Policies

Policy	Policy Description	Year	Local Plan
PPW	Planning Policy Wales (Edition 10, December 2018)		National Policy
TAN6	Planning for Sustainable Rural Community		National Policy

SP7	Safeguarding of Strategic Resources and Assets	Local Development Plan 2011-2026
DM2	The Natural Environment	Local Development Plan 2011-2026
DM4	Landscape	Local Development Plan 2011-2026
DM7	Dark Skies and External Lighting	Local Development Plan 2011-2026
DM13	Design and Resources	Local Development Plan 2011-2026
TAN5	Nature Conservation and Planning	National Policy
TAN11	Noise	National Policy
TAN12	Design	National Policy
TAN18	Transport	National Policy
TAN23	Economic Development	National Policy
TAN24	The Historic Environment	National Policy
T1	Travel, Traffic and Transport Infrastructure	Local Development Plan 2011-2026
SPG SPG	Landscape Biodiversity and Geodiversity	

### **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015



## **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.

### Site Location and Description

The application site is located within the Community Council area for Whitton. The proposed development is not located within a settlement development boundary and therefore for the purposes of this application is considered as development within the open countryside as defined by the Powys Local Development Plan (2018).

The site is located off the U1087 unclassified highway and located approximately 0.6 kilometres to the west of Cascob. The existing land is currently agricultural land used for the purposes of grazing. The site is bound by the county highway to the north and agricultural land to the east, south and west.

Under class A (2) of part 6 of The Town and Country Planning (General Permitted Development) Order 1995, developers are required to submit a prior notification for various agricultural developments to enable the planning authority to determine whether prior approval of the planning authority will be required for the siting, design and external appearance of the building.

Prior approval was sought for the erection of an agricultural building for the purposes of storage of machinery and fodder and for the housing of livestock during extreme weather and for kidding goats during inclement weather. The Local Planning Authority determined that prior approval was required due to the siting and design of the proposed building. This application therefore now comes before Members for determination.

Consent is therefore now sought for the erection of an agricultural building for the purposes of storage of machinery and fodder. The proposed building will measure approximately 36.6 metres in length and approximately 12.1 metres in width. The building will reach a maximum height of approximately 5.3 metres.

### Principle of Development

Under Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) Order 1995 the principle of an agricultural building for the purposes of storage of fodder and machinery is considered to be acceptable however, concerns were

raised over the siting and design of the proposed building and prior approval was therefore determined as being required.

By way of background to the application site, consent was previously sought in full under planning application 18/0667/FUL for the erection of a livestock barn and formation of a new vehicular access road. This application was refused by Members of the Planning, Taxi Licensing and Right of Way Committee on the following reason:

- 1. Due to the scale and location of the proposed development, it is considered that the proposed development would have an unacceptable adverse landscape and visual impact on the surrounding area. The proposed development is therefore considered to be contrary to policy DM4 of the Local Development Plan (2018) and Planning Policy Wales (Edition 10, 2018)*

### Design & Siting

With respect to design and siting specific reference is made to LDP policy DM13. This indicates that development proposals will be required to demonstrate good quality design that complements and/or enhances the character of the surrounding area in terms of siting, appearance, integration, scale, height, massing and design detailing. Development proposals must not have an unacceptable adverse effect on the valued characteristics and qualities of the Powys landscape.

The proposed building will measure approximately 36.6 metres in length and approximately 12.1 metres in width. The building will reach a maximum height of approximately 5.3 metres. The building will be constructed from juniper green box profile steel sheeting for the walls and roof.

Reference is also made to LDP policy DM4 – Landscape. Having assessed the proposed site under LANDMAP, it was evident that the visual and sensory evaluation of the site was classified as *Moderate*. The area is defined as being within “*two extensive areas, either side of Lugg Valley, across to Teme Valley in east of county. More hilly & steep than areas to south and west. Rolling hills & valleys with strong pastoral field patterns, wooded watercourses and scattered trees & small woodlands with scattered farms*”.

Information was submitted which indicates that the proposed building will be set into the original slope and that the excavated material will then be utilised to build up an area of land to the front of the building, approximately 1.8 metres in height. No noted amendments have been submitted to overcome concerns raised in the previous application. Therefore, due to its location on an open hillside in an elevated and prominent location the concerns raised in relation to the proposed siting and scale, and its impact upon the wider landscape remain. The proposal is therefore deemed to have an unacceptable impact on the Powys landscape due to being sited on an open field, not grouped with any other buildings.

Consideration has been given to additional landscaping, however due to the open nature of the field it is considered that the addition of landscaping to screen the building could appear unnatural in the wider landscape and therefore only contributing further to the visual impact of the proposed building.

In light of the above it is considered that the proposed development is contrary to planning policies DM4, DM13.

### Highways

A safe access, parking and visibility splays are a fundamental requirement of any development. Concerns have been raised regarding the access for the proposed development from third party representations which will now utilise the existing access to the site.

The Local Highway Authority has been consulted regarding the proposed development and have confirmed that they do not wish to comment on the application.

In light of the above and despite the concerns received it is therefore considered that the proposed development fundamentally complies with relevant planning policy.

### Built Heritage

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'. The Barnwell Manor case the Court of Appeal made it clear that in enacting s.66 (1), Parliament had intended that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carried out the balancing exercise. Therefore, special regard must be given to the desirability of preserving listed buildings and their setting and any harm caused should be given considerable weight within the planning balance.

The Built Heritage officer has been consulted and notes the previous history to the application site. The proposed agricultural building has now been located approximately 525 metres from St Michael Church and the Built Heritage officer has confirmed that they would in light of the distances have no objection to the setting of the listed buildings.

In addition to the listed building, it is noted that the application site is approximately 690 metres from Scheduled Ancient Monument RD146 (Twiscob Moated Site). Cadw has

been consulted but no comments have been received at the time of writing this report. An update will be provided to Members prior to the meeting.

CPAT have also stated that they previously advised that the barn would partially impact PRN 2198 Twiscob Enclosure and one of the former field banks associated with it. To mitigate this impact they advised that a watching brief condition should be attached to any consent so that any archaeology impacted by the development could be recorded and excavated as required. These comments still stand and should the proposal be approved than a suitably worded condition be attached.

In light of the above, and subject to the recommended conditions it is considered that the development fundamentally complies with relevant planning policy.

### Amenity/ Residential Impacts

With respect to impact upon the amenities afforded to neighbouring properties, reference is made to LDP policy DM13 which seeks to safeguard the amenities afforded to neighbouring dwellings.

The nearest neighbouring dwelling is Twiscob located approximately 355 metres to the west of the proposed site. To the north east is St Michaels church with residential dwellings beyond. The nearest dwelling to the south east is Spriggs Cottage which is located approximately 590metres across the valley from the site.

In light of the distances between the proposed building and neighbouring dwellings it is not considered that the proposed development will impact the amenities afforded to neighbouring dwellings.

### Public Representations

It is noted that a number of public representations have been received objecting to the proposed development. Whilst it is considered that a number of objections have already been addressed there are a number of matters which can be addressed as follows:

- Enforcement

It is noted that enforcement matters relating to this application site have been raised within third party representations. It is considered that the enforcement matters are separate to this application and therefore should have no further consideration in the determination of this application.

- Publicity of Application

Concerns have been raised regarding the publicity of the application. A site notice was erected on 11<sup>th</sup> of April 2019 and therefore I can confirm that the application has been

advertised appropriately in line with the statutory requirements under the Town and Country Planning (development Management Procedure Order) (Wales) Order 2012.

### **Decision**

In light of the above it is considered that the proposed development would be seen as having an unacceptable adverse impact on the landscape and visual impact of the surrounding area. The recommendation is therefore one of refusal.

### **Reasons**

1 Due to the scale and location of the proposed development, it is considered that the proposed development would have an unacceptable adverse landscape and visual impact on the surrounding area. The proposed development is therefore considered to be contrary to policy DM4 of the Local Development Plan (2018) and Planning Policy Wales (Edition 10, 2018).