

Planning, Taxi Licensing and Rights of Way Committee Report

Application Number: 20/1010/OUT

Grid Ref: E: 278742
N: 209843

Community Council: Ystradgynlais Community

Valid Date: 08.07.2020

Applicant: Mr G Price

Location: Former School Playing Field At, James Street, Ystradgynlais, Powys, SA9 1EX

Proposal: Erection of two detached dwellings and associated works

Application Type: Outline planning

The reason for Committee determination

This application has been called-in by the local member.

Consultee Responses

Consultee

Received

Ward Councillor

No response received at the time of writing the report.

Community Council

No response received at the time of writing the report.

Environmental Protection

24th Jul 2020

Please can the applicant provide further information on the drainage. In respect of noise works can only be carried out between 8-6 M-F and 8-1 Saturday with no works on Sunday or Bank holidays.

PCC-Ecologist

No response received at the time of writing the report.

PCC-Building Control

No response received at the time of writing the report.

PCC-(S) Highways

27th Jul 2020

Thank you for consulting the Highway Authority (HA) on this planning application, covering the proposed erection of 2 dwellings and associated infrastructure on land at The Former Playing Field, James Street, Ystradgynlais

The HA has previously accepted, through consideration of planning applications P2015/0705 & P/2016/0989, that limited levels of residential development on this site is acceptable from a highway perspective. Such acceptance, is subject to a level of highway mitigation works, specifically junction improvement works at Pantyffyon Road/James Street.

Whilst it is noted that the area of land previously identified and required to improve the Pantyffyon Road/James Street junction, is included within the current application site, the HA seeks confirmation that this land is under the applicants control, as third party land ownership notice does not appear to have been served.

The junction improvement works shall be subject to the imposition of a pre-commencement condition, so it is requested that confirmation on this matter is sought before this application is determined.

Second response – 18th January, 2021

The County Council as Highway Authority for the County Unclassified Highway, U0898

Wish the following recommendations/Observations be applied
Recommendations/Observations

Thank you for re-consulting the Highway Authority (HA) on this planning application, which covers the proposed erection of 2 dwellings and associated infrastructure on land at The Former Playing Field, James Street, Ystradgynlais

It is considered prudent to reiterate that the HA has previously accepted, through consideration of planning applications P2015/0705 & P/2016/0989, that limited levels of residential development on this site, is acceptable from a highway perspective. Such acceptance is subject to an element of highway mitigation works being included as part of the development proposals; specifically, the need for improvements to the Pantyffyon Road/James Street junction.

As the land required to undertake the improvement works is in third party ownership, the HA has previously sought assurances that appropriate notice has been served on the landowner and that confirmation has been received from them, indicating that there is a realistic likelihood of such works being agreed and implemented by the applicant before any subsequent development is commenced.

Whilst it is noted that additional information has since been submitted by the applicant to demonstrate that the requisite third-party land ownership notice has now been duly served on the owners of the land, there is no supporting information on the portal to indicate that the appropriate landowner consent will be forthcoming.

Notwithstanding the above, should the LPA be satisfied that such works are deliverable by the applicant, the HA recommends that the following condition, which is consistent with that recommended previously, be attached to any consent granted.

- The applicant shall provide full engineering detail of the junction improvement works required at the James Street/Pantyffyon Road junction. The said works shall be agreed in writing by the Local Planning Authority and shall be constructed to adoptable standard prior to any works being commenced on the development site.

Given that this is an outline application with all matters reserved, all other highway related matters will be considered and conditioned by the HA during the reserved matters submission.

Advisory Notes

NOTE: THE ATTENTION OF THE APPLICANT MUST BE DRAWN TO RELATED HIGHWAYS LEGISLATION WHICH MAKES PROVISION FOR THE FOLLOWING;

1. Under Section 184 of the Highways Act 1980, it is a requirement that a licence is obtained from the Highway Authority, in addition to Planning Permission, for vehicular access works.
 - a. The need to avoid interference with and to make provision for the carrying of existing highway drainage under the access to the satisfaction of the Highway Authority.
 - b. The requirement of the Highway Authority for the Developer to ensure that no surface water is discharged onto the County Highway or, without prior approval, into the highway drainage system.
2. Under Section 50 of the New Roads & Street Works Act 1991 it is a requirement that a Streetworks licence is obtained from the Highway Authority to place, or to retain, apparatus in the highway and thereafter to inspect, maintain, adjust, repair, alter or renew the apparatus, change its position or remove it.
3. Under section 171 of the Highways Act 1980 it is a requirement that a licence is obtained from the Highway Authority, in addition to Planning Permission, for the creation of passing bays or highway re-alignment works.
4. The need to inform and obtain the consent of Statutory Undertakers (Electricity, Water, Gas, BT), Land Drainage Authority, etc. to the works.
5. The New Roads & Street Works Act 1991 requires that all works, be properly notified and approved prior to commencement.

Further advice on the above highway matters can be obtained from:-

<http://www.powys.gov.uk/en/roads-transport-parking/street.works@powys.gov.uk>

Street Works
Powys County Hall
Spa Road East
Llandrindod Wells
Powys
LD1 5LG
0845 6027035

Welsh Water

24th Jul 2020

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 would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

SEWERAGE We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. The proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. The position shall be accurately located and marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewer. Reason: To protect the integrity of the public sewer and avoid damage thereto, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

Surface Water Drainage The proposed development may be subject to Schedule 3 of the Flood and Water Management Act 2010. The development therefore may require approval of Sustainable Drainage Systems (SuDS) features, in accordance with national standards, and is strongly recommended that the developer engage in pre-application consultation with the Local Authority, as the relevant SuDS Approval Body (SAB). Should it be determined that SAB consent is not required, we request that if you are minded to grant Planning Consent for the above development that the following Conditions and Advisory Notes listed below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

Advisory Notes The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private

Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

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.

PCC-Contaminated Land Officer

27th Jul 2020

In respect of planning application, the following advice is provided for the consideration of Development Control.

Advice

1. Records identify that the application site is located in a former coal mining area, and falls within a Coal Authority defined 'Development Low Risk Area'.

Coal seams and former mineworkings are a potential source of ground gas, which could present a potential risk to the proposed dwelling.

2. As advised under section 6 'Distinctive and Natural Places', of the Welsh Government 'Planning Policy Wales' guidance document [para 6.9.28], the responsibility and subsequent liability for safe development and secure occupancy of a site rests with the developer and/or landowner.

Therefore, as the application site is located in a former coal mining area, it is recommended that the following condition and note, to the applicant, are attached to any permission granted for planning application :

Ground Gas Condition

Condition 1. Specification and Verification Methodologies

The subject site is located in a former coal mining area and ground gas protection measures which meet, as a minimum, Characteristic Situation 2 (CS2) specifications, as prescribed in BS8485:2015+A1:2019 'Code of Practice for the Design of Protective Measures for Methane and Carbon Dioxide Ground Gases for New Buildings', must be

installed.

The specification and verification methodologies, for the installation of the ground gas protection measures, must be approved in writing, by the local planning authority, prior to the commencement of the development.

Condition 2. Installation of Approved Ground Gas Protection Measures

Following completion of the installation of the ground gas protection measures, a verification report, which is subject to the approval in writing of the local planning authority, must be produced prior to the occupancy of the development. The verification report contents must be agreed with the local planning authority before commencement of the development.

Coal Authority

4th Aug 2020

Thank you for your notification of 21 July 2020 seeking the views of the Coal Authority on the above planning application.

The Coal Authority is a non-departmental public body sponsored by the Department of Business, Energy & Industrial Strategy. As a statutory consultee, The Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

The Coal Authority Response: Material Consideration

I have reviewed the site location plans and the proposals and supporting information available to view on the LPA website and can confirm that part of the site falls within the defined Development High Risk Area.

The Coal Authority records indicate that the western part of the application site (area of existing access road) lies in an area where a thick coal seam outcrops to the north west of the site (dipping towards the site).

However, in accordance with Drawing No. 18/4371/3 - Proposed Block Plan the part of the site where development is likely to be taking place lies outside of the defined High Risk Area. Therefore, we do not consider that a Coal Mining Risk Assessment is necessary to support this proposal and we do not object to this planning application.

Although the development proposed is outside of the defined Development High Risk Area as the site lies within an area where coal mining activity has taken place it is requested that the following wording is included as an Informative Note on any planning permission granted:

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:

www.gov.uk/coalauthority

Please do not hesitate to contact me if you would like to discuss this matter further.

Natural Resources Wales (Mid Wales)
DPAS

28th Jul 2020

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 20/07/2020.

We have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if the following requirement is met. Otherwise, we would object to this planning application.

Requirement 1: Flood Risk - The Planning Authority to be satisfied that there are overriding reasons for considering for granting the application contrary to national planning policy on development and flood risk. Satisfactory evidence must then be

provided to demonstrate that the risks and consequences of flooding can be managed to be acceptable level, in accordance with TAN15.

Flood Risk

The planning application proposes highly vulnerable development which consists of the erection of two detached residential dwellings and all associated works. Our Flood Risk Map, which is updated on a quarterly basis, confirms the site to be within Zone C2 of the Development Advice Map (DAM) contained in TAN15.

We refer you to Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9 January 2014, which affirms that highly vulnerable development and emergency services should not be permitted in Zone C2 (paragraph 6.2 of TAN15). The justification tests in paragraph 6.2 of TAN15 do not apply to highly vulnerable development or emergency services in Zone C2.

In the first instance, your Authority should make a planning policy decision on the application. Therefore, unless we receive written confirmation from your Authority that you believe there are overriding reasons to consider granting planning permission, despite the site's location within Zone C2, we do not intend to review the submitted flood consequences assessment (FCA) and we would advise that your Authority should refuse the planning application on planning policy grounds. * Please note that the links to the FCA and modelling reports on the Powys website are not working/accessible.

The decision as to whether a development should be considered contrary to TAN15 policy is entirely a matter for your Authority. However, if you provide overriding reasons and require our advice, we request sufficient time to review the applicant's FCA. We will then provide you with technical advice on the acceptability of flooding consequences in accordance with Appendix 1 of TAN15.

If the FCA fails to demonstrate that the consequences of flooding can be acceptably managed over the lifetime of the development, then we would object to the application.

Please inform us, in accordance with advice in paragraph 11.7 of TAN15, if you are minded to grant permission for the above application contrary to our advice and allow sufficient time for further representations to be made before any consent is granted.

Finally, as your Authority will be aware, under the Town & Country Planning (Notification) (Wales) Direction 2012 and more specifically Category I relating to Flood Risk Area Development, where the Planning Authority is minded to grant permission, there is a requirement to refer applications for emergency services or highly vulnerable development within Zone C2 to Welsh Government.

Protected Species

We note that there is no ecological information submitted in support of the application and, therefore, are assuming that your Authority has screened the application and concluded that there is not a reasonable likelihood of protected species being present.

Other Matters:

Our comments above only relate specifically to matters included on our checklist, Development Planning Advisory Service: Consultation Topics (September 2018), which is published on our website <https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/our-role-in-planning-and-development/our-role-in-planning-and-development/?lang=en> We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests. We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our website <https://naturalresources.wales/permits-and-permissions/?lang=en> for further details.

Environmental Protection

No response received at the time of writing the report.

PCC- (S) Land Drainage

13th Aug 2020

All: Having assessed the Planning Application Ref 20/1010/OUT, the SuDS Approval Body (SAB) deem that the construction area is greater than 100m² and therefore this proposed development will require SAB approval prior to any construction works commencing onsite.

Please contact the SAB Team on 01597 826000 or via email sab@powys.gov.uk

For further information on the requirements of SAB and where relevant application forms/guidance can be accessed, please visit the following website <https://en.powys.gov.uk/article/5578/Sustainable-Drainage-Approval-Body-SAB>

If for any reason you believe your works are exempt from the requirement for SAB approval, we would be grateful if you would inform us so we can update our records accordingly.

The requirement to obtain SAB consent sits outside of the planning process but is enforceable in a similar manner to planning law. It is a requirement to obtain SAB consent in addition to planning consent. Failure to engage with compliant SuDS design at an early stage may lead to significant un-necessary redesign costs.

Representations

Four public objections have been submitted, listing concerns mainly about flooding and highways issues, but also issues of privacy and amenity for neighbours.

Planning History

| App Ref | Description | Decision | Date |
|-------------|--|----------|---------------|
| P/2018/0571 | Change of Use of land to equestrian, erection of stables, creation of access and parking area. | Refused. | 28 Aug, 2018. |
| P/2016/0989 | Outline: Erection of two dwellings and associated works | refused. | 22 Aug, 2017 |

Principal Planning Constraints

C1 Floodzone
C2 Floodzone

Principal Planning Policies

| Policy | Policy Description | Year | Local Plan |
|--------|---|------|-----------------|
| PPW | Planning Policy Wales (Edition 10, December 2018) | | National Policy |
| TAN5 | Nature Conservation and Planning | | National Policy |
| TAN15 | Development and Flood | | National Policy |

| | | |
|--------|--|----------------------------------|
| | Risk | |
| TAN12 | Design | National Policy |
| T1 | Travel, Traffic and Transport Infrastructure | National Policy |
| SPGRES | Residential Design Guide | Local Development Plan 2011-2026 |
| SPGBIO | Biodiversity and Geodiversity SPG (2018) | Local Development Plan 2011-2026 |
| SP1 | Housing Growth | Local Development Plan 2011-2026 |
| SP6 | Distribution of Growth across the Settlement Hierarchy | Local Development Plan 2011-2026 |
| DM2 | The Natural Environment | Local Development Plan 2011-2026 |
| DM4 | Landscape | Local Development Plan 2011-2026 |
| DM5 | Development and Flood Risk | Local Development Plan 2011-2026 |
| DM7 | Dark Skies and External Lighting | Local Development Plan 2011-2026 |
| DM10 | Contaminated and Unstable Land | Local Development Plan 2011-2026 |
| DM13 | Design and Resources | Local Development Plan 2011-2026 |
| H3 | Housing Delivery | Local Development Plan 2011-2026 |

Other Legislative Considerations

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

Marine and Coastal Access Act 2009

Officer Appraisal

Principle of Development

James Street is a residential dead-end road leading off Glantawe Row, and which runs perpendicular to the River Tawe. The site is some 300 metres south of Ystradgynlais town centre. To the east of the site is the residential area of Maescynog. To the north of the site is a hall and war memorial gardens. To the south-west of the site is Glantawe Row which fronts the River Tawe and beyond that is further housing. To the south of the site are the common lands of Glantawe.

James Street is a mix of residential housing, mostly consisting of small terrace houses with some larger detached ones.

The site is currently grazing land.

This application is for outline consent for two detached dwellings. The scale parameters for the dwellings are for dwelling 1 to be 15-18metres wide x 20-24 metres long, and 6-8 metres high. Dwelling 2 would be 8-10 meters wide x 14-17 metres long, by 6-8 metres high.

LDP Policy DM5 and TAN 15 deal with development within flood zones. They seek to ensure that proposals for highly vulnerable development that are within areas that are deemed to be subject to flooding, as designated by NRW's DAM maps, are refused to safeguard future occupants and the surrounding locality from further flooding issues.

The site at James Street is within a C2 floodzone as determined by the DAM maps. Residential dwellings are considered highly vulnerable development and therefore the policy context requires the application to be refused.

It is therefore considered that the principle of development is fundamentally contrary to LDP Policy DM5 and TAN 15 and therefore should be refused.

Design and External Appearance

With respect to design, specific reference is made to LDP policies DM13 (Part 1) and H3. LDP policy DM13 requires development to be able to demonstrate a good quality design and to have regard to the qualities and amenity of the surrounding area, local infrastructure and resources.

Design and external appearance is to be dealt with at Reserved Matters stage, however, it is considered that the size and scale of the proposed is acceptable within the locality, and that the plot is large enough to design dwellings that are acceptable within their surroundings.

It is therefore considered that this application is in accordance with LDP policies H3 and DM13.

Privacy and Overlooking

Guidance has been sought from the Residential Design Guide (2020) in respect to impacts on neighbouring residential properties.

Although the actual siting and design would be dealt with within any subsequent reserved matters application, it is noted that the approximate site of the dwellings will only be approximately 18 metres from the front elevations of the dwellings opposite. The Residential Design Guide suggests that a minimum of 20 metres should be between facing habitable room windows. However, the plots are generous and it is felt that it would be possible for the dwellings to be sited in different locations within the site.

Therefore it is felt that overlooking and privacy issues could be avoided through careful design appropriate design under any reserved matters application.

Highways

A safe access and parking is a fundamental requirement of any development. Both objectors have raised concerns about the narrowness of the road junction and problems currently experienced with the road that they would not like to see exacerbated.

The Highway Authority have been consulted and stated that whilst they considered the site acceptable under previous applications, they requested further information about land ownership in order to carry out junction improvement works at Pantyffyon Road/James Street. The agent confirmed that a notice had been served and an agreement was in place to carry out the works required by the Highway Authority.

The Highway Authority were content with this and said that whilst the site does have constraints, they were satisfied that sufficient access could be achieved, subject to the inclusion of planning conditions.

It is therefore considered that this application is in accordance with planning policy and in particular LDP policy DM13.

Flood risk

TAN 15 and LDP policy DM5 set out the strategic requirement for new development to

be free of the risk of flooding. The policies state that highly vulnerable development will not be permitted in Zone C2. Housing is considered to be highly vulnerable development.

The NRW DAM maps show that this site lies within the C2 flood zone, categorized that is "without significant flood defence infrastructure".

No information that would disprove the information provided in the DAM maps has been provided and therefore it is considered that the significant concerns raised by NRW remain.

In conclusion, NRW has recommended that the application be refused on flood risk grounds.

Therefore it is considered that this application is wholly against LDP policy DM5 and TAN 15 and therefore it can be concluded that this application is contrary to policy and should be refused.

Ecology

With respect to biodiversity, specific reference is made to LDP policy DM2 which seeks to maintain biodiversity and safeguard protected important sites.

The proposed is a residential development on land that is currently a field used for grazing. Ecology was consulted but have not made any comments. However, it is considered that as the site is pastureland, there would not be any ecological concerns or need for further surveys. Any details re biodiversity enhancements or exterior lighting could be included at reserved matters stage.

It is therefore considered that this application is acceptable in relation to ecology and in particular, LDP policy DM2.

Contaminated Land

The application site is located in a former coal mining area and falls within a Coal Authority defined 'Development Low Risk Area'.

LDP policy DM10 states that development proposals will be permitted where they remediate the contamination and do not unacceptably adversely affect public health and safety. In this instance, the Contaminated Land Officer requested that conditions and an advisory note be attached to any consent to ensure that the proposal is acceptable within the remit of contaminated land.

It is therefore considered that the application is acceptable within the terms of LDP policy DM 10 Contaminated and Unstable Land.

Conclusion

In the light of the above, it is considered that the application is not in accordance with the local and national policy context, and therefore this application is therefore REFUSED.

RECOMMENDATION

Refusal.

Reasons

1 The proposal will lead to the introduction of highly vulnerable development within Zone C2 as defined by the Development Advice Maps referred to under TAN15 Development and Flood Risk (2004). The development is contrary to policy DM5 of the Powys Local Development Plan (2011-26), Technical Advice Note 15: Development and Flood Risk (2004) and Planning Policy Wales (2018).