

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

<b>Application No:</b>	P/2017/0181	<b>Grid Ref:</b>	317908.03 317349.7
<b>Community Council:</b>	Meifod	<b>Valid Date:</b>	<b>Officer:</b> 14/02/2017 Kate Bowen
<b>Applicant:</b>	Lady Linlithgow, Bryngwyn Hall, Bwlch-y-Cibau, Llanfyllin, SY22 5LF		
<b>Location:</b>	Llwyn Derw, Bwlch-Y-Cibau, Llanfyllin, Powys, SY22 5LN		
<b>Proposal:</b>	Full: Erection of detached dwelling and installation of sewage treatment plant		
<b>Application Type:</b>	Application for Full Planning Permission		

### Reason for Committee determination

The application is a departure from the development plan and is recommended for approval.

### Site Location and Description

The site is located to the south east of the settlement development boundary and to the east of the U2176 unclassified highway in Bwlch y Cibau.

The application is submitted in full and seeks consent for the erection of a 3 bedroomed, single storey detached dwelling and installation of sewage treatment plant. The dwelling would have a floor area (excluding attached single garage) of 114 square metres and measures 19.5 metres (including attached garage) by 9.5 metres (including porch) with a ridge height of 5.6 metres. The north west elevation would be faced in stone with the remaining three elevations faced in render with the roof proposed to be slated. The existing sewage treatment plant which serves the adjacent residential dwellings would be relocated approximately 7 metres to the east with a new drain to the existing outflow. Vehicular access would be gained via the existing estate road, off the unclassified U2176 highway and the submission indicates parking and turning provision.

### Consultee Response

#### Meifod Community Council

Members of Meifod Community Council have agreed to support this application, that is part of a development within the village of Bwlchycibau.

#### PCC Highway Authority

The County Council as Highway Authority for the County Unclassified Highway, U2176

Wish the following recommendations/Observations be applied

## Recommendations/Observations

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

### PCC Building Control

Building Regulations application required.

### Wales and West Utilities

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

### Severn Trent Water (STW)

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

### PCC Environmental Health

From our discussions I understand that the Treatment Plant currently serving some of the properties on the development is going to be relocated and this proposed dwelling will also be served by the newly relocated treatment plant.

Provided that the NRW allow the additional discharge to the water course I have no objection to the application.

## **Representations**

Following the display of a site notice and publicity in the local press, no public representations have been received.

## **Planning History**

P/2015/0433 - VAR: Removal of conditions 3, 4 & 5 of permission P/2012/0047 relating to the requirement for the Code for Sustainable Homes. Conditional consent 12/11/2015

P/2012/0047 - Erection of 4 no. dwellings, construction of a new vehicular access and formation of a new public footpath, installation of a sewage treatment plant and associated landscaping (resubmission). Conditional consent 07/08/2012

P/2011/0105 - Erection of 4no. dwellings, construction of a new vehicular access and formation of a new public footpath, installation of a package treatment plant and associated landscaping. Application withdrawn

## **Principal Planning Constraints**

- Outside of settlement development boundary;
- Unclassified highway;
- Scheduled Ancient Monument Bwlch-y-Cibau Enclosure located approximately 210m to the west of the application site;
- Bwlch y Cibau Conservation Area located approximately 6 metres to the north west of the application site;
- Four listed buildings located approximately 80 metres to the north west of the application site; and
- Bryngwyn Historic Garden located approximately 111m to the north west of the application site.

## **Principal Planning Policies**

### National Planning Policy

Planning Policy Wales (Edition 9, 2016)

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

Technical Advice Note (TAN) 6: Planning for Sustainable Rural Communities (2010)

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

Technical Advice Note (TAN) 15: Development and Flood Risk (2004)

Technical Advice Note (TAN) 18: Transport (2007)

Welsh Office Circular 11/99 – Drainage

Welsh Office Circular 61/96 – Planning and the Historic Environment: Historic Buildings and Conservation Areas

Welsh Office Circular 61/96 – Planning and the Historic Environment: Archaeology

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

### Local Planning Policy

*Powys Unitary Development Plan (2010)*

UDP SP1 – Social, Community and Cultural Sustainability

UDP SP2 – Strategic Settlement Hierarchy

UDP SP5 – Housing Developments

UDP GP1 – Development Control

UDP GP3 – Design and Energy Conservation

UDP GP4 – Highway and Parking Requirements

UDP ENV2 – Safeguarding the Landscape

UDP ENV11 – Development in Conservation Areas

UDP ENV14 – Listed Buildings  
UDP ENV16 – Landscapes, Parks and Gardens of Special Historic Interest  
UDP ENV17 – Ancient Mounuments and Archaeological Sites  
UDP ENV18 – Development Proposals affecting Archaeological Sites  
UDP HP3 – Housing Land Availability  
UDP HP4 - Settlement Development Boundaries and Capacities  
UDP HP5 – Residential Developments  
UDP HP6 – Dwellings in the Open Countryside  
UDP HP7 – Affordable Housing within Settlements  
UDP HP8 – Affordable Housing Adjoining Settlements with Development Boundaries  
UDP HP9 – Affordable Housing in Rural Settlements  
UDP TR2 – Tourist Attractions and Development Areas  
UDP DC9 – Protection of Water Resources  
UDP DC10 – Mains Sewage Treatment  
UDP DC13 – Surface Water Drainage

Powys Residential Design Guide (2004)  
Powys Joint Housing Land Availability Study (2016)

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

The proposed development lies wholly outside the development boundary of Bwlch y Cibau as detailed on inset map M109 and would result in one dwelling being constructed outside the settlement boundary.

Outside of settlement boundaries, UDP Policy HP4 applies and states that '*outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9*'. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered a departure.

### Housing land supply

The departure is being justified by the applicant on the basis that Powys County Council does not have a 5 year housing land supply.

Paragraph 9.2.3 of Planning Policy Wales states that '*Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.*'

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

*"The housing land supply 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".*

The JHLAS identified a significant undersupply of housing land within Powys. As mentioned above, TAN 1 confirms that the need to increase supply should be given considerable weight but only where the development would otherwise comply with development plan and national planning policies.

Bwlch y Cibau is classified as a small village within the Powys Unitary Development Plan with no sites allocated for residential development in the UDP. However, a residential housing development of four dwellings within the settlement development boundary and adjacent to the application site was approved under reference P/2012/0047 and this permission has been implemented with three of the dwellings having been constructed and the final dwelling under construction. In addition, a further single infill dwelling within the settlement boundary was approved under reference P/2016/0980.

In light of the above, whilst acknowledging that the proposal does constitute a departure from the development plan, Members are advised that the lack of a five year housing supply in Powys needs to be given considerable weight in the determination of this application. However, before reaching a decision, the scheme will need to be considered against other policies contained within the UDP in order for a balanced view to be made on the acceptability of the development overall.

#### Sustainable location

When providing additional housing it is important to consider whether the scheme can be considered to be sustainable development. This can relate to a wide range of matters including public transport provision and access to education, employment opportunities and other services.

As noted above, Bwlch y Cibau is identified as a small village within the UDP. The UDP advises that given the limited level of services (including church, public house and community

hall), especially the absence of mains sewerage facilities, together with the existing small scale of the village and the sensitivity of its Conservation Area, only a modest amount of growth would be considered acceptable in the plan period. Consequently the UDP states that only residential development on single plots or on sites consisting of small groups of dwellings is considered appropriate.

Given the designation as a small village, and that the proposal is for a single dwelling adjacent to the development boundary, it is considered that the proposed additional residential development in this location would accord with the provisions of Planning Policy Wales in so far as it is a sustainable location.

#### Design and impact upon character and appearance of the locality

Bwlch y Cibau is an attractive village which has a distinct character with the centre of the settlement (conservation area) having stone as the predominant building material. The site is located adjacent to the settlement boundary and a recent housing development of four dwellings where stone is used alongside render which is reflected in the proposed dwelling.

The proposed dwelling is considered to be of a suitable scale in terms of floor space and height and whilst located on the edge of the village, subject to appropriate landscaping measures, it is considered that the scale, form and design general of the proposal reflect the overall character and appearance of the settlement and surrounding area.

#### Impact upon amenities enjoyed by occupants of neighbouring residential properties

As noted above, consent was granted for four dwellings under reference P/2012/0047 on adjacent land. The side elevation of Plot 3 is located approximately 3 metres from the side elevation (garage) of the proposed dwelling. The front (south east) elevation of Plot 2 (under construction) is located approximately 22 metres to the north west of the front (north west) elevation of the proposed dwelling. In addition, the dwelling known as Llwyn Derw is located to the north of the front (north west) elevation of the proposed dwelling at a distance of approximately 28 metres.

Given that the distance between the front elevations of Llwyn Derw, Plot 2 and the proposed dwelling is more than the 20 metres advised for rear elevations within the Powys Residential Design Guide and that the side elevation of Plot 3 would be affected rather than front or rear elevations, it is considered that the proposal is acceptable in terms of the impact upon privacy. In terms of overshadowing, whilst the proposed dwelling would be less than 40 metres from the front elevation of Plot 2 and Llwyn Derw, given that the proposed dwelling is single storey and that the land level descends towards the application site, the proposal is acceptable in terms of overshadowing.

Therefore, it is considered that the proposed development would not have an unacceptable adverse impact upon occupiers of neighbouring residential properties in accordance with UDP Policy GP1.

#### Highway access and parking

Vehicular access to the site would be gained via the existing estate road off the U2176 unclassified highway and the submission indicates that parking and turning provision would

be provided at the site. The Highway Authority has not objected to the proposal but has recommended that a condition should be applied to any consent granted to require the provision and retention of 3 car parking spaces. On the basis of the advice from the Highway Authority and subject to the use of the recommended condition, it is considered that adequate provision for highway access and parking would be provided in accordance with UDP Policy GP4.

#### Foul and surface water drainage and flooding

It is proposed to dispose of foul sewage via the existing sewage treatment plant which serves the dwellings approved under permission P/2012/0047. The treatment plant would be relocated approximately 7 metres to the east of the existing with a new drain to be provided to the existing outflow. In addition, planning permission was recently granted under reference P/2016/0980 (under the same ownership of the applicant) for a single dwelling to the north west of Llwyn Derw with discharge into the treatment plant permitted. The Environmental Health department has not objected to the proposal providing that Natural Resources Wales allow the additional discharge to the water course. Given that the treatment plant and its discharge into the watercourse is consented/licensed by Natural Resources Wales under a separate regime, it is considered that adequate provision for foul drainage would be provided in accordance with UDP Policy ENV11.

The site is not located within an area known to be at risk of flooding. The site is located to the north west of a watercourse (stream) with the rear garden of the proposal meeting the watercourse. In terms of surface water run-off, the submission indicates that surface water is to be disposed to soakaways. However, no surface water drainage details/drawing(s) or an indication as to how the impermeable areas within the proposed application site will be drained/disposed, have been submitted. Therefore, to ensure adequate surface water drainage is provided for, it is considered reasonable and necessary to attach a condition to any consent granted to require the submission, approval and implementation of a surface water drainage scheme in accordance with UDP Policy DC13.

#### Impact upon heritage assets

##### *Setting of Scheduled Ancient Monument*

There is a policy presumption in favour of preserving the setting of scheduled ancient monuments. Bwlch-y-Cibau Enclosure Scheduled Ancient Monument (SAM) is located approximately 210m to the west of the application site.

The land level of the Enclosure rises from the C2121 highway to the south of the SAM, however the highway is very well treed and along with the intervening residential properties between the C2121 highway and the U2176 highway, the development is not likely to be visible from the SAM. On this basis and in consideration that the dwelling would be sited adjacent to other dwellings, it is not considered that the proposal would unacceptably affect the setting of a scheduled ancient monument in accordance with UDP Policy ENV17.

##### *Conservation area*

Bwlch y Cibau Conservation Area is located approximately 6 metres to the north west of the application site. The authority is required to have special attention to the desirability of

preserving or enhancing the character or appearance of the conservation area under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. UDP Policy ENV11 states that proposals located within conservation areas should be of high quality design and should preserve or enhance the character or appearance of the area. Proposed developments that would significantly detract from the character of the area will be opposed.

Taking into account the design of the proposal, it is considered that the proposal would not have an unacceptable impact upon the character or appearance of the conservation area in accordance with UDP ENV11.

#### *Setting of Listed buildings*

There are four listed buildings located approximately 80 metres to the north west of the application site within the village:

- Christ Church Parish Church – grade II;
- Sundial in the Churchyard – grade II;
- Lych-Gate to Christ Church – grade II; and
- Drinking Fountain – grade II.

The authority is required have special regard to the desirability of preserving the listed buildings or their settings under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. UDP Policy ENV14 states that proposals unacceptably adversely affecting a listed building or its setting will be refused taking into account the desirability of preserving the listed building and its setting, the importance of the building, the effects of the proposal on any particular features and the contributions of the building to the local scene.

Taking into account the distance and the intervening village and the design of the proposal, it is considered that the proposal would not have an unacceptable adverse impact upon the identified listed buildings and their settings in accordance with UDP Policy ENV14.

#### *Archaeology*

Development Management is not aware of any archaeological interests affected by the proposal.

#### *Bryngwyn historic park and garden*

The site is located approximately 111 metres to the south east of the registered historic garden of Bryngwyn. The park and garden is located beyond the village, the A490 highway and the churchyard. The park includes a house with small formal garden set in park with lake and intact shelter belts. The park is noted as a fine example of late eighteenth century brick gentry house in a beautiful situation, surrounded by well preserved contemporary and early nineteenth century landscape parkland.

Taking into account the distance and the intervening village and the design of the proposal, it is considered that the proposal would not unacceptably adversely affect the character or appearance of the historic park and garden in accordance with UDP Policy ENV16.



### Crime and Disorder Act 1998

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

### Equality Act 2010

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

Having due regard to advancing equality involves:

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

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

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

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

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

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

## **RECOMMENDATION**

Whilst the proposal is a departure from the development plan, the Council's current lack of housing land supply carries significant weight in favour of this development and given that the

proposal would otherwise comply with development plan and national planning policies, the recommendation is one of conditional consent.

### **Conditions**

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans stamped as approved on xxxx (drawing no's: Location Plan, 3, 4).
3. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The approved scheme must be implemented prior to first use of the dwelling hereby permitted.
4. Within one month of the implementation of this permission a landscaping scheme shall be submitted to and agreed in writing by the Local Planning Authority. The submitted design shall include drawings at a scale of 1:200 or 1:500 and a written specification clearly describing the species, sizes, densities and planting numbers. Drawings must include accurate details of all existing trees and hedgerows with their location, species, size, condition, any proposed tree surgery and an indication of which are to be retained and which are to be removed.
5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year defects period.
6. Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 3 cars per dwelling excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

### **Reasons**

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
3. To ensure the provision of a satisfactory means of surface water disposal in accordance with Policies GP1 and DC13 of the Powys Unitary Development Plan (2010).
4. To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment and visual amenity in accordance with policies GP1 and ENV2 of the Powys Unitary Development Plan (2010).
5. To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment and visual amenity in accordance with policies GP1 and ENV2 of the Powys Unitary Development Plan (2010).
6. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.

### **Informative Notes**

*Please note the comments from Wales & West Utilities:*

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

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Regeneration, Property and Commissioning**

Applicant: Lady Linlithgow

Location: Llwyn Derw, Bwlch y Cibau,  
Llanfyllin

