

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2016/1036	Grid Ref:	325504.56 315560.38
Community Council:	Llandrinio	Valid Date:	Officer: 06/10/2016 Kate Bowen
Applicant:	Mr & Mrs RG & JB Ashton, c/o Roger Parry and Partners		
Location:	Land adjacent to Windy Ridge, Arddleen, Llanymynech, Powys, SY22 6PY		
Proposal:	Development of up to 9 dwellings, formation of vehicular access and associated works (outline)		
Application Type:	Application for Outline Planning Permission		

Reason for Committee determination

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

Site Location and Description

The application site is located adjacent to the settlement development boundary and on the south eastern side of the C2106 class three highway to the west of Arddleen Primary School. A dwelling known as Windy Ridge is located to the north east of the application site. The site is agricultural land which is bound with hedgerows and mature trees.

The application is submitted in outline with all matters reserved for the erection of up to 9 dwellings, formation of vehicular access and associated works. The submission provides the following indicative scales:

- One pair of 2 bedroomed, semi-detached dwellings – 10.250m x 7.750m and 8.445m to the ridge of the roof;
- Two detached 3 bedroomed dwellings – 6m x 8.750m and 8.445m in height to the ridge;
- Two detached 4 bedroomed dwellings – 9m x 9.250m x 8.495m in height to the ridge;
- One detached 5 bedroomed dwelling – 10.6m x 10.250m x 9.145m to the ridge;
- Two detached 5 bedroom dwellings – 10.750m x 11.750m x 9.295m to the ridge;
- Four single garages – 6m x 3m and 4.1m to the ridge; and
- A pair of semi-detached single garages – 6m x 6m and 5.325m to the ridge.

The submission indicates a new vehicular access off the C2106 highway with parking provision allocated for each dwelling. The application size area is 0.452 hectares.

Consultee Response

Llandrinio Community Council

Correspondence received 10/10/2016:

The Community Council considered the above application at a site meeting held on Thursday 3rd November 2016.

The Community Council OBJECT to the above application for the following reasons;-

1. Outside the development boundary and therefore contrary to Policy GP1 Development Control. This Policy states that development should only be considered if all the dwellings were affordable. Residents would welcome larger properties which were affordable and would give them an opportunity to move from the smaller starter homes in the Village.
2. Housing Land Supply – our Villages are attracting speculative development due to the fact that the Local development Plan has not yet been adopted. The Community Council feels that it is still important to adhere to the structures and boundaries within the existing Unitary development Plan whilst taking heed of the emerging Local development Plan which has indicated another area in the village opposite the school which would be more suitable for development.
3. Highways Although visibility is good this is a busy narrow lane. The 30mph sign needs to be moved further back and an extra passing place installed. Surface water drainage on the lane is already a problem as there are no gullies or drains on this lane and any water runs into a neighbouring property
Any development needs to incorporate a footpath to the School
4. Foul drainage No provision is shown for connecting onto the Sewer system as this may involve the construction of a pumping station or the need to go across third party land.

Correspondence received 23/02/2017:

Further to the amended plans received Llandrinio & Arddleen Community Council wish to maintain their Objection as per our letter of 10th October 2016.

PCC Highway Authority

I have no objection in principle, however, are they proposing to connect up to the existing footway as I would expect pedestrians/school children to walk down to the local school situated a small distance away from the proposal.

With regard to the width of the C2106 serving the site then it is of a single track nature from the school and these dwelling will undoubtedly create extra traffic movements. It appears from the way the road has been designed that there are aspirations for further dwellings. There will clearly be a requirement to upgrade the width of the road which appears could be done on the other side of the carriageway. However, we would need to be mindful of existing access points and there visibility requirements. I would propose that an indicative layout is provided now so we safeguard the required land for improvements at a future stage.

How do they intend to dispose of the highway surface water drainage? I note GA (Land Drainage Engineer) has commented that the land is not suitable for soakaways.

PCC Affordable Housing Officer

The latest housing need figures for the area is:

Property type	Housing need
1 bed	26
2 bed	49
3 bed	19
4 bed	7

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)

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

Waste Water Comments

With Reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution

PCC Land Drainage

Correspondence dated 19/10/2016:

I've looked at the proposal and for surface water disposal it has been indicated (item 13 of App Form) that this will drain to the 'main sewer'. Having looked at Severn Trent Water Ltd's records the nearest public surface water sewer is in 'Llwyn Perthi' and third party approval to cross intervening land may be an issue.

Perhaps the Applicant needs to be made aware?

Soakaways are going to be of limited use as the ground conditions in Arddleen are poor for soakage. Therefore, an appropriate surface water drainage design needs to be established prior to the LPA granting any permission.

Correspondence dated 22/02/2017:

I note the options being put forward by the drainage consultant in their report to dispose surface water run-off from this site. In my opinion there will be difficulties in what they want to achieve and will certainly require further negotiated outcomes that may not be easily secured.

The first option being considered is to discharge surface water to the roadside ditch immediately north of the site. This roadside ditch/piped system flows to an unnamed watercourse approximately 180m north of the site, which is a completely different drainage catchment to that of the site. A pumped connection would be required to lift this water to the level of the roadside ditch. As I understand, the roadside ditch is a highway drainage asset and as such the Highway Authority is not obliged to accept surface water flow from development. Even if this was agreed, no indication has been provided on the capacity of the existing drainage and watercourse systems and whether or not this connected flow would have impacts elsewhere. Ongoing maintenance will be critical for a system like this to function effectively and when coupled with a high energy usage during extreme weather events, this may not be a suitable option.

The alternative solution being suggested is to requisition a sewer connection to the existing 225mm public surface water sewer in Llwyn Perthi. This will be subject to the agreement of Severn Trent Water and will require the applicant to demonstrate that a connection to a watercourse is not feasible. However, in my opinion this option is the more acceptable as not only is there no chance that a pump failure could give rise to localised flooding within the site or elsewhere but also surface water flows would continue to drain to its natural catchment, albeit via an engineered but sustainable drainage system.

I've copied in Simon Crew to this reply (as Simon has taken on Paul W's role) as I thought he'd better be aware of what is being proposed, particularly the option to utilise the highway drainage system by this developer.

I hope this is of assistance but would be happy to discuss further should you wish.

Public Representations

Following display of a site notice and publicity in the local press, five public representations have been received and are summarised as follows:

Principle

- The site is outside the settlement boundary and as such any observation or objections are being ignored;
- The site is not one of the candidate sites for the proposed Local Development Plan and would undermine the LDP;
- There are other sites within the village more suitable for development;

Impact upon amenities of neighbouring properties

- Concerns over loss of privacy and overlooking in relation to the property known as The Oaks;
- The site is at a raised angle in comparison to The Oaks which would cause overlooking;
- The garden area of The Oaks would be overlooked;

Human Rights

- Urge consideration of the Council's responsibilities under the Human Right Act (protocol 1, article 1) which states that a person has the right to peaceful enjoyment of all their possessions which includes the home and their land;

Foul drainage

- Access to Windy Ridge for servicing the septic tank and LPG tank is via the field gate to the application site;
- Soakaway from septic tank for Windy Ridge is likely to run into the land the subject of the application;
- There is no main foul drain for use in the village;

Surface water drainage

- Drainage in the area is a major concern
- Surface water from Burgedin Road has been known to ingress into the land of Windy Ridge and the two adjoining properties;
- It is essential that the highway drainage ditch remains maintainable in an open form and not covered by pathways and piped. The amount of soil likely to ingress the system from the amount of heavy farm traffic and others would cause difficulties and flooding risk;

Traffic

- Traffic volumes would increase in addition to the recently approved P/2016/1189 for four dwellings opposite the site. The road width and ditches do not make it suitable for passing places;
- Even with the 30mph restriction, many vehicles ignore this along this straight narrow road;
- The road is used by many pedestrians and dog-walkers;

Design

- The maximum height of the properties is not indicated which is important on an elevated site;

- The submitted plan demonstrates that additional dwellings could be accommodated on the land adjacent to the application site which would compound concerns over traffic and drainage;

Tree protection

- Consideration should be given to a number of well-established superb Oak trees at the lower end of the site which could be seriously affected by ground works and construction;

Other matters

- The block plan is incorrect when compared to the hedge boundaries of the site and Land Registry Details; and
- It is disappointing that the Planning Authority does not deem it necessary to notify adjoining properties of planning applications.

Planning History

M/2006/0935 – Erection of a garage with store over (at Windy Ridge itself). Conditional consent 21/11/2006

M13258 – Details of a bungalow. Conditional consent 05/07/1985

M12964 – Bungalow (outline). Conditional consent 17/04/1985

Principal Planning Constraints

- C2106 class three highway;
- Application site is located approximately 190 metres to the North West of the Montgomery

Canal SAC/SSSI; and

- Outside of settlement development boundary.

Principal Planning Policies

National Planning Policy

Planning Policy Wales (Edition 9, 2016)

TAN 1: Joint Housing Land Availability Studies (2015)

TAN 2: Planning and Affordable Housing (2006)

TAN 5: Nature Conservation and Planning (2009)

TAN 6: Planning for Sustainable Rural Communities (2010)

TAN 10: Tree Preservation Orders (1997)

TAN 12: Design (2016)

TAN 15: Development and Flood Risk (2004)

TAN 18: Transport (2007)

TAN 23: Economic Development

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

Welsh Office Circular 13/97 - Planning Obligations

Welsh Office Circular 10/99 - Planning requirements in respect of the use of non-mains sewerage incorporating septic tanks in new development

Local Planning Policy

Powys Unitary Development Plan (2010)

UDP SP1 – Social, Community and Cultural Sustainability

UDP SP2 – Strategic Settlement Hierarchy

UDP SP3 – Natural, Historic and Built Heritage

UDP SP6 – Development and Transport

UDP GP1 – Development Control

UDP GP2 – Planning Obligations

UDP GP3 – Design and Energy Conservation

UDP GP4 – Highway and Parking Requirements

UDP ENV1 – Agricultural Land

UDP ENV2 – Safeguarding the Landscape

UDP ENV3 – Safeguarding Biodiversity and Natural Habitats

UDP ENV7 – Protected Species

UDP ENV8 – Tree Preservation Orders

UDP CS3 – Additional Demand for Community Facilities

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 HP10 – Affordability Criteria

UDP TR2 – Tourist Attractions and Development Areas

UDP DC10 – Mains Sewerage Treatment

UDP DC13 – Surface Water Drainage

UDP RL2 – Provision of Outdoor Playing and Recreation Space

Affordable Housing for Local Needs Supplementary Planning Guidance (SPG) Approved September 2010 Updated July 2011

Powys Residential Design Guide (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.

Procedure

Public representations express disappointment that neighbour notification letters were not issued for the application. Publicity of the application has been carried out in accordance with the relevant legislative requirements as set out within The Town and Country Planning (Development Management Procedure) (Wales) Order 2012 where for the this type of application the following publicity is required:

By giving requisite notice—

- (a) by site display in at least one place on or near the land to which the application relates, for not less than 21 days; and
- (b) by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated.

A site notice was displayed near the land to which the application relates and also publicised in the County Times newspaper. Therefore, Development Management confirms that the application has been publicised in accordance with the relevant legislation.

Public representations have also raised concern that the block plan is incorrect when compared to the hedge boundaries of the site and Land Registry details. The applicant's agent has supplied a copy of the title plan lodged with the Land Registry. The only discrepancy apparent to Development Management is the northern application site boundary which includes a section of highway verge. However, because this area of land is the highway verge, Development Management is satisfied that that the application site area and proposed block plan are accurate for the purposes of determining the planning application.

Principle

As referred to within the response from the Community Council and within public representations, the proposed development lies wholly outside the development boundary of Arddleen as detailed on inset map M104 and would result in nine dwellings 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".

Public representations have raised concern over proposals for housing developments and that objections are not taking into account. Whilst TAN 1 confirms that the need to increase housing land supply should be given considerable weight, it is emphasised that this is only where the development would otherwise comply with development plan and national planning policies. Therefore, all material planning considerations are required to be taken into account as are all relevant national and local planning policies and balanced with the undersupply of housing land currently available in Powys.

Arddleen is classified as a large village within the Powys Unitary Development Plan and one site was allocated within the UDP for residential development (site M104 HA1 – Land adjacent Naylor House extending to 0.98 ha) and this site has been developed. Recently, the Planning, Taxi Licensing and Rights of Way Committee resolved to grant outline permission for four dwellings on land opposite the application site under reference P/2016/1189 and a further application for up to 9 dwellings at Land at Bryn Perth has been approved under reference P/2016/0319.

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, Arddleen is identified as a large village within the UDP and it is noted that the village is served by a range of community services and facilities including primary school, community centre and public house. It is also noted that the village is served by a bus route and is located approximately 7 miles from Welshpool and 9 miles from Oswestry.

Given the designation as a large village, and that the proposal is for up to 9 dwellings 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.

Affordable housing

Given that the proposal is for nine dwellings, the UDP requires a proportion of affordable housing. UDP Policy HP7 states that a proportion of affordable housing will be sought based on the extent and type of need as identified by the Council's Housing Needs Survey, successive surveys or other reliable robust data sources and the nature of the site.

Evidence of local need has been provided by the Council's Affordable Housing Officer as follows (There will be duplication within these figures as the same person may have applied for more than one type of property):

Property type	Housing need
1 bed	26
2 bed	49
3 bed	19
4 bed	7

This is an accepted form of evidence which demonstrates evidence of housing need in the locality. The applicant has offered to provide on-site provision of two affordable dwellings (the two semi-detached two bedroomed dwellings) which equates to a 22% provision which is below the 30-35% proportion advised that is normally achievable within the UDP.

The outline submission indicates a mixture of dwellings; however Members are advised that this scale is indicative only with scale being a reserved matter for future consideration. Nevertheless, it is considered that there is scope to provide dwellings to match the need and whilst the proposed provision of two dwellings would equate to a lower proportion than that identified within the UDP, officers are aware that the viability evidence of the Local Development Plan is currently being reviewed and updated. It is understood that it is likely that the affordable housing provision requirement will be lower than that currently required under the Unitary Development Plan. Therefore, on this basis, it is considered that the proposed level of affordable housing (two units) is acceptable and a condition should be attached to require the submission of a scheme for the provision of affordable housing.

Design and impact upon character and appearance of the area

Guidance contained within UDP Policy HP5 indicates that residential development will be permitted where the development is of an appropriate scale, form and design and general character, to reflect the overall character and appearance of the settlement and surrounding area. Whilst all matters (including design and layout) are reserved and will be dealt with at the reserved matters stage, it is relevant to consider whether the number of dwellings proposed could be appropriately developed on the site.

The site is an edge of settlement location which adjoins open countryside and therefore the locality is considered to be sensitive to visual change. In terms of LANDMAP Visual Sensory Areas (VSA), the site sits within the Guilsfield Rolling Farmlands VSA (MNTGMVS612) which has a high evaluation. The land adjacent to the site within the development boundary, is situated within the Arddleen VSA (MNTGMVS549) which has a low classification.

The indicative layout and scale indicates nine, two storey dwellings of various scales as indicated above. The layout demonstrates that the site can accommodate nine dwellings and detailed design would follow at reserved matters stage, if this outline application receives consent which would provide the opportunity to ensure that the dwellings have an acceptable appearance and design. The properties in the locality consist of a mixture of one and two storey detached properties, although the immediate properties are single storey being predominantly brick with some stone in the immediate locality. The proposed scale of two storeys is not considered to be out of character with the locality.

In terms of landscaping, the submission indicates that the proposal would provide an opportunity to provide additional native landscaping which would assist in mitigating visual impact. Landscaping is a reserved matter and therefore detailed proposals would be considered at a later date.

Whilst the site would be visible from public vantage points including the public highway and public rights of way in the wider area and that the proposal would result in a visual change in comparison to the current agricultural use, taking into account the location opposite and adjacent to the existing dwellings within the development boundary along the approach road to Arddleen, that landscaping measures would reduce the visual impact and that the proposed scale of nine dwellings is considered to reflect the character of the development that has occurred along the highway at this location, it is considered that a satisfactory detailed design could come forward to reflect the overall character and appearance of the settlement and surrounding area.

Tree protection

Public representations have referred to mature Oak trees along the southern boundary of the application site. These trees are not the subject of Tree Preservation Orders. The indicative layout details the spread of the trees with some parking and turning areas located within the identified areas.

In order to ensure that the trees are protected through the course of the development, it is recommended that any approval includes a condition to require indications of all existing trees (including spread and species) as well as an identification of those to be retained and measures for their protection throughout the course of development.

Impact upon amenities enjoyed by the occupants of neighbouring properties

Policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties will not be unacceptably affected. The Powys Residential Design Guide provides guidance on overshadowing and privacy. Public representations have raised concern over the impact of the development in terms of privacy (dwelling and garden) and overshadowing of the property known as The Oaks.

The site is located adjacent to the properties known as Windy Ridge and The Oaks. The indicative layout demonstrates that the side elevation of plot 1 would be approximately 4 metres from the subsidiary extension of the side elevation of Windy Ridge. The rear elevation of plot 9 is located approximately 45 metres from the rear elevation of The Oaks with the rear garden of plot 9 being a minimum of 18 metres between the rear elevation of plot 9 and the rear boundary. The rear elevation of the dwelling of The Oaks is located approximately 22 metres from the boundary. These distances comply with the guidelines set out within the Residential Design Guide in respect of privacy and overshadowing.

Taking into account the character of existing development in the locality and the highway, it is considered that the indicative layout demonstrates that residential development can be provided at this location without unacceptably adversely affecting the amenities enjoyed by occupants of existing residential properties and that of the proposed dwellings in accordance with UDP Policy GP1 and the Council's Residential Design Guide. In addition, this planning consideration can be considered further at the reserved matters stage.

Highway access and parking requirements

UDP Policy GP4 requires adequate highway provision in terms of a safe access, visibility, turning and parking. Access to the site would be gained off the C2106 class three highway via a new vehicular access. The Community Council has commented that although visibility is good this is a busy narrow lane. In addition, the Community Council has commented that the 30mph sign needs to be moved further back and an extra passing place installed and any development needs to incorporate a footpath to the school. Public representations have raised concerns over the additional traffic which would be generated by the development.

The Highway Authority has advised that there is no objection in principle, however connection to the existing footway to the north east of the site at the 20mph speed limit sign to enable pedestrian access to the school from the site is recommended. In addition, the width of the C2106 serving the site is of a single track nature. Development Management agrees that in combination with a separate application for up to four dwellings on land opposite the application site (reference number P/2016/1189), improvements to the C2106 highway would be of benefit and are required involving widening of the C2106 and the provision of a footway to the village.

The submission demonstrates that the access could be achieved and given the width of the highway verges at this location, road widening and a footway along the frontage of the development could be achieved. Public representations have raised concern over the impact of road widening/surfacing etc upon the current open ditch within the highway verge. Such works would need to take account of and make provision of the existing drainage system by diverting or culverting. Further consideration in respect of this verge drain will be considered below in the surface water drainage section of the report.

Overall, subject to the use of conditions to ensure that the access is completed to the required standard together with the road widening and the provision of a footway, it is considered that the proposal makes adequate provision for highway access and parking in accordance with UDP Policy GP4.

Foul drainage

It is proposed to connect to the public sewerage system which is the preferred method of disposal. Public representations have raised concern over foul drainage. Severn Trent Water has advised that they have no objection to the development and therefore Development Management is satisfied that the sewerage and sewage disposal system has sufficient capacity to accommodate the additional flows generated as a result of the development. Severn Trent Water has advised that a condition should be attached to any consent granted to require the details of the foul drainage and as such it is recommended that such a condition should be attached to any consent granted to ensure a satisfactory means of drainage in accordance with UDP Policy DC10.

Flood risk and surface water drainage

The application site is within Zone A of the TAN15 Development Advice Maps and as such is not known to be at risk of flooding.

In respect of surface water disposal, the submission indicates that this would be disposed to the main sewer. Public representations have raised concern over surface water disposal. Severn Trent Water has not objected to the proposal, subject to the use of a condition to require the details of surface water drainage being submitted before works commence. The Council's Land Drainage Engineer has advised that the nearest public surface water sewer is in 'Llwyn Perthi' and third party approval to cross intervening land may be an issue.

If third party approval cannot be gained to connect into the public surface water sewer, the Land Drainage Engineer has also advised that soakaways are going to be of limited use as the ground conditions in Arddleen are poor for soakage. Therefore, it has been advised that an appropriate surface water drainage design was required prior to any consent being granted.

Following this advice, a Drainage Strategy Report has been submitted. The Land Drainage Engineer has raised concerns over the proposed solutions. The first option being considered is to discharge surface water to the roadside ditch immediately north of the site. This roadside ditch/piped system flows to an unnamed watercourse approximately 180m north of the site, which is a completely different drainage catchment to that of the site. A pumped connection would be required to lift this water to the level of the roadside ditch. It is understood that the roadside ditch is a highway drainage asset and as such the Highway Authority is not obliged to accept surface water flow from development. Even if this was agreed, no indication has been provided on the capacity of the existing drainage and watercourse systems and whether or not this connected flow would have impacts elsewhere. Ongoing maintenance will be critical for a system like this to function effectively and when coupled with a high energy usage during extreme weather events, this may not be a suitable option.

The alternative solution being suggested is to requisition a sewer connection to the existing 225mm public surface water sewer in Llwyn Perthi. This will be subject to the agreement of Severn Trent Water and will require the applicant to demonstrate that a connection to a watercourse is not feasible. However, the Land Drainage Engineer has advised that this option is the more acceptable as not only is there no chance that a pump failure could give rise to localised flooding within the site or elsewhere but also that surface water flows would continue to drain to its natural catchment, albeit via an engineered but sustainable drainage system.

Taking into account the advice from the Land Drainage Engineer and the contents of the Drainage Strategy, given that soakaways are not likely to be feasible but that there are solutions available, particularly connection to the mains surface water system and that Severn Trent Water has not objected to the proposal, it is recommended that a condition should be attached to any consent granted to require the submission and approval of a surface water drainage scheme to ensure that adequate provision is made for surface water drainage.

Impact upon nature conservation

Given that the site is currently within agricultural use and that there are no known species or sites within the locality which would be affected by the development, it is not considered that the proposal would affect nature conservation interests. Landscaping would be considered at the reserved matters stage and as such this would provide biodiversity enhancements in accordance with UDP Policy ENV3.

Other legislation

Human Rights Act 1998

Public representations have referred to the impact upon their human rights. The proposal could be considered to involve the following human rights issues:-

1. Articles 8: Right to respect for private and family life.

i) Everyone has the right to respect for his/her private and family life, his/her home and his/her correspondence.

ii) There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others.

2. The First Protocol

Every natural or legal person is entitled to the peaceful enjoyment of his/her possessions. No one shall be deprived of his possessions except in the public interests and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

The report considers in detail above the competing rights and interests involved in the application. Having had regard to those matters in the light of the convention rights referred to above, it is considered that the recommendation is in accordance with the law, proportionate and both necessary to protect the rights and freedoms of others and in the public interest.

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

Subject to future consideration of the design and the implementation of landscaping measures, it is considered that the proposal would not result in an unacceptable adverse impact upon the surrounding landscape or public vantage points or the amenities enjoyed by the occupants of neighbouring properties. In addition, subject to the use of conditions, the proposal would make adequate provision for surface water flood risk and drainage, highway access and parking.

Whilst the proposal is a departure from the development plan, the Council's current lack of housing land supply carries considerable 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. 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 in accordance with the plans stamped as approved on XXXX in so far as the extent of the application site is drawn.
5. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:
 - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 20% of housing units/bed spaces;
 - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
 - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
6. The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the first occupation of any of the dwellings hereby approved.

7. Upon the submission of the reserved matters referred to within Conditions 1 and 2, the landscaping details shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

8. 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.

9. Prior to the construction of the dwellings hereby approved details and/or samples of the materials to be used in the construction of the external surfaces of the dwellings shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

10. Upon the submission of the reserved matters referred to in Conditions 1 and 2, a scheme for the provision of road widening along the C2106 and a footway shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation of any dwellings hereby approved the approved road widening improvement along the C2106 and construction of a footway shall be fully completed.

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. In order to ensure the provision of affordable housing in accordance with Policy HP7 of the Powys Unitary Development Plan (2010), the Powys Affordable Housing for Local Needs Supplementary Planning Guidance (2011) and Technical Advice Note 2: Planning and Affordable Housing (2006).

6. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution in accordance with Policies GP1, DC10 and DC13 of the Powys Unitary Development Plan (2010).

7. To ensure a satisfactory and well planned development, to ensure protection is afforded to mature trees on the southern boundary of the site and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with Policies GP1 and ENV2 of the Powys Unitary Development Plan (2010).

8. To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with Policies GP1 and ENV2 of the Powys Unitary Development Plan (2010).

9. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the buildings in accordance with policies GP1 and GP3 of the Powys Unitary Development Plan and the Councils Residential Design Guide.

10. 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.

Case Officer: Kate Bowen- Planning Officer
Tel: 01938 551268 E-mail:kate.bowen@powys.gov.uk

Susan Bolter
Pennaeth Adfywio, Eiddo a Chomisiynu/
Head of Regeneration Property & Commissioning
Adfywio, Eiddo a Chomisiynu/
Regeneration, Property and Commissioning

Applicant: Mr & Mrs RG & JB Ashton

Location: Land adjacent to Windy Ridge,
Arddleen, Llanymynech

