

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2017/0130	Grid Ref:	289762.46 242629.24
Community Council:	Llangamarch	Valid Date:	Officer: 30/01/2017 Thomas Goodman
Applicant:	Mr Peter Smith & Mrs Lisa O'Neil Smith, Oak House Farm, Tirabad, Llangammarch Wells, Powys, LD4 4DU		
Location:	Oak House Farm, Tirabad, Llangammarch Wells, Powys, LD4 4DU		
Proposal:	Section 73 application to remove condition 3 of permission B/96/0182 relating to occupancy restrictions		
Application Type:	Application for Removal or Variation of a Condition		

The reason for Committee determination

The application has been called in by Cllr Van-Rees.

Site Location and Description

The proposed development site is located within the open countryside as defined by the Powys Unitary Development Plan (2010). The U0067 runs approximately 0.22km to the east and the settlement of Cefn Gorwydd lies approximately 2.9km to the north. The application site is surrounded by agricultural land.

This application is for the removal of condition 3 of the permission B96/0182 that relates to occupancy restrictions.

Condition 3 states:

“The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants.”

Reason: The dwelling is proposed for a site where a dwelling would not normally be permitted other than for agricultural or forestry purposes, and to ensure that the dwelling is available to meet the special needs of agriculture or forestry.”

Consultee Response

Llangammarch Community Council

No response received at the time of writing this report.

PCC - Highways

Does not wish to comment on the application

PCC Property

With regards to P/2017/0130 the agents have now targeted the agricultural sector by advertising in the agricultural sections of the local paper and on uklandandfarms.co.uk (although the adverts are basic) therefore if you are content that the appropriate time scales have been met for advertising, the property has been appropriately marketed.

Cllr Tim Van-Rees

Requires the application to be called in.

Representations

Following the display of a site notice, no public representations have been received at the time of writing this report.

Planning History

B/01/0302 - Erection of new dwelling – Conditional Consent

B/96/0182 - Outline application for a dwelling – Conditional Consent -12/06/1998

P/2016/0196 - Section 73 application to remove condition 3 of permission B/96/0182 relating to occupancy restrictions – Application Withdrawn

Principal Planning Constraints

None

Principal Planning Policies

National Planning Policy

Planning Policy Wales (Edition 9, November 2016)

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

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

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

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

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

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

Local Planning Policies

Powys Unitary Development Plan (2010)

GP1 – Development Control
GP3 – Design and Energy Conservation
GP4 – Highway and Parking Requirements
GP6 – Conversion of Buildings in the Countryside
ENV2 – Safeguarding the Landscape
ENV3 – Safeguarding Biodiversity and Natural Habitats
HP3 – Housing Land Availability
HP4 – Settlement Development Boundaries and Capacities
HP5 – Residential Developments
HP6 – Dwellings in the Open Countryside
HP9 – Affordable Housing in Rural Settlements
HP10 – Affordability Criteria
HP14 – Sustainable Housing

Powys Residential Design Guide (October 2004)

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

Officer Appraisal

Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Principle of Development

UDP policy HP6 relates to dwellings in the open countryside. HP6 states that the removal of an occupancy condition or planning obligation will only be considered on the basis of realistic assessments of the continuing need for its retention and where genuine but unsuccessful attempts have been made to market the dwelling in connection with the existing use for a period of at least 12 months at a price that realistically reflects the existence of the occupancy condition.

Condition 3 of the permission B96/0182 states:

“The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants.”

Reason: The dwelling is proposed for a site where a dwelling would not normally be permitted other than for agricultural or forestry purposes, and to ensure that the dwelling is available to meet the special needs of agriculture or forestry.”

Information submitted in support of the application demonstrates that the property has been marketed at various locations for the required time period as stated within policy HP6.

Powys County Council's Property department has been consulted on the proposed development. The Officer has stated that the proposed development has now been marketed within the agricultural press as well as Rightmove and the Local Press. The property has been advertised in excess of 12 months. The property has been marketed at £450,000, James Dean Estate Agents have stated that a realistic asking price for this property without the occupancy restriction would be marketed in the region of £625,000. Despite the property being marketed for in excess of 12 months no offers have been made.

Given that the property has been appropriately marketed for a continuous period exceeding 12 months, it is considered that there has been a genuine but unsuccessful attempt at marketing the dwelling. It is therefore considered that the proposed development satisfies the requirements of HP6 and therefore Condition 3 of the B/96/0182 application can be removed.

Section 106 Agreement

The original planning application (B/96/0182) also had a Section 106 Agreement which ties the agricultural dwelling to the land forming the agricultural holding. In determining a Section 73 application consideration must be given to the planning obligation that was originally applied to the consent.

It is no longer the practice to tie agricultural dwellings to the holding as it is considered that the rural enterprise dwelling condition is appropriate. As it is clear that unsuccessful efforts have been made to secure a future owner who meets the planning condition it would be unreasonable to re-issue the Section 106 Agreement tying the dwelling to the land.

Other Legislative Considerations

Crime and Disorder Act 1998

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

Equality Act 2010

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

Having due regard to advancing equality involves:

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

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

Planning (Wales) Act 2015 (Welsh language)

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

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.

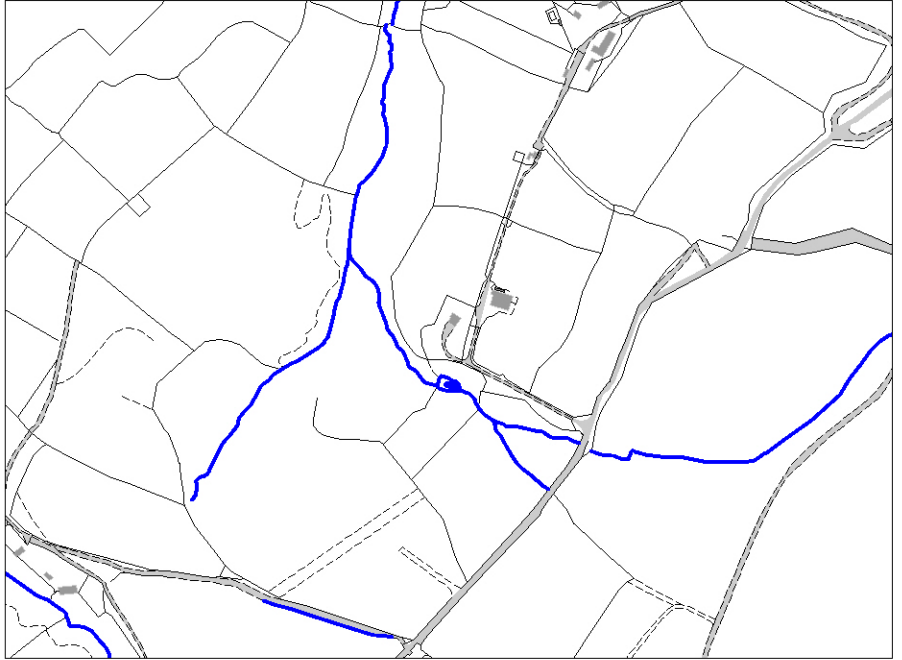
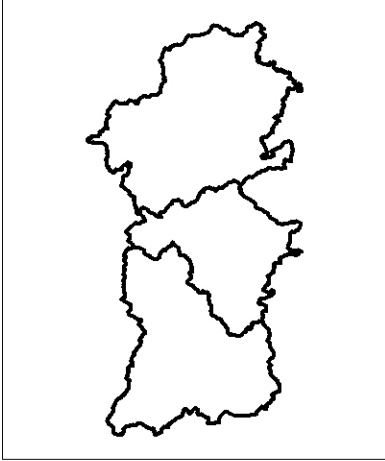
Recommendation

In light of the above it is therefore considered that the proposed development fundamentally complies with relevant planning policy and the recommendation is therefore one of consent.

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

Applicant: Mr Peter Smith & Mrs Lisa
O'Neil Smith
Location: Oak House Farm, Tirabad,
Llangammarch Wells



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Oak
House
Farm

Pond

POWYS