

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

<b>Application No:</b>	P/2016/1337	<b>Grid Ref:</b>	311255.28 312846.43
<b>Community Council:</b>	Llangyniew	<b>Valid Date:</b>	<b>Officer:</b> 30/12/2016 Kate Bowen
<b>Applicant:</b>	Mr J M Evans, c/o Roger Parry and Partners		
<b>Location:</b>	Land adj Pant-y-Ddafad, Pontrobert, Meifod, Powys, SY22 6JF		
<b>Proposal:</b>	Proposed residential development comprising of up to 9 dwellings, formation of vehicular access and access road and all associated works		
<b>Application Type:</b>	Application for Outline Planning Permission		

### **Reason for Committee determination**

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

### **Site Location and Description**

The application site is located on the western side of the C2031 highway and to the north east of a dwelling known as Llwyn Derw. The site rises from the south west to the north east and forms part of a larger field which is currently in agricultural use. The field is bound by mature hedgerows and trees with the southern part of the application site adjoining Llwyn Derw bound by post and wire fencing. The application site extends to 0.75 hectares.

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

- Three 4 bed detached houses - 9m x 8.5m and 8.3m to the ridge (145 square metres);
- Four 4 bed detached houses – 10.8m x 6.7m and 8m to the ridge (159 square metres);
- One 3 bed semi-detached house – 6m x 9.6m and 8.4m to the ridge (120 square metres);
- One 3 bed semi-detached house – 5.5m x 10.7m and 8.4m to the ridge (114 square metres); and
- Seven detached double garages – 6m x 6m and 6.4m to the ridge.

The submission indicates a new vehicular access off the C2031 highway with parking provision allocated for each dwelling. Amended plans have been received which propose a pedestrian footpath link to an existing footpath to the south of the application site.

## Consultee Response

### Llangyniew Community Council

*Correspondence received 21/02/2017:*

Llangyniew Community Council at its meeting tonight made the following comment on the above planning applications:

Council noted that neighbouring houses have not been informed of these planning applications. Has this practice now ceased?

**P/2016/1337** for proposed residential development comprising of up to 9 dwellings, formation of vehicular access and access road and all associated works at land adj to Pant-y-Ddafad, Pontrobert.

Council **RESOLVED** to Refuse support for this application for the following reason:

Infrastructure of the Village.

Type of properties being proposed.

Road Access

Volume of traffic

No Local Needs houses

Cannot Sale properties already built in village

*Correspondence received 23/05/2017:*

Council **RESOLVED** not to support the amendments for this application and refers to Council's comments made in January 2017.

### PCC Highway Authority

*First response:*

As you are aware the village of Pontrobert is very sparse in terms of its cluster of houses. However, it does offer local facilities/services such as a Primary School, Church, Chapel, Community Centre and Post Office.

In order for us to consider the requirements under the Active Travel Wales Act 2013, whenever we have a residential housing application we need to consider how the occupants can travel/visit the facilities that are mentioned above. Whilst the motor vehicle would be the obvious choice, cycling and walking should also be considered and indeed are ranked higher in the overall hierarchy.

From what is being proposed the application fails to tick any of those boxes and the site is therefore considered not to be sustainable in this location without extensive improvements to the existing highway infra-structure. It is noted that the new access would also be outside of the existing 30 mph speed limit and I suggest the agent speaks to our Traffic Engineer Mr Chris Lloyd to see if there is scope in this being moved as part of the planning application. It is also noted that the agent has drawn the visibility to the incorrect channel line to the North of the site.

In view of the above due its remoteness away from the key facilities of the village and lack of improvements being proposed the Highway Authority recommend REFUSAL in the interests of highway safety.

*Second response following the receipt of amended plans:*

Prior to any other works commencing on the development site, detailed engineering drawings for the new footway and carriageway widening along the Class III C2031 shall be submitted to and approved in writing by the Local Planning Authority.

Prior to any works commencing on the development site, all Highway Improvements, referred to above, shall be fully completed to the written satisfaction of the Local Planning Authority.

- HC1 Any entrance gates shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
- HC3 The centre line of the first 10 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.
- HC4 Within 5 days from the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 60 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
- HC7 Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
- HC9 Prior to the occupation of any of the dwellings, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

- HC10 The gradient from the back of the footway/verge to the vehicle parking areas shall be constructed so as not to exceed 1 in 15 and shall be retained at this gradient for as long as the dwellings remain in existence.
- HC11 Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
- HC12 The width of the access carriageway, constructed as Condition HC7 above, shall be not less than 5 metres for a minimum distance of 10 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.
- HC14 Any internal side-road junctions shall have a corner radii of 6 metres.
- HC15 The centre line radii of all curves on the proposed estate road shall be not less than 20 metres.
- HC19 No building shall be occupied before the estate road carriageway and one footway shall be constructed to and including binder course level to an adoptable standard including the provision of any salt bins, surface water drainage and street lighting in front of that building and to the junction with the county highway.
- HC20 The estate road carriageway and all footways shall be fully completed, in accordance with the details to be agreed in writing by the Local Planning Authority, upon the issuing of the Building Regulations Completion Certificate for the last house or within two years from the commencement of the development, whichever is the sooner. The agreed standard of completion shall be maintained for as long as the development remains in existence.
- HC21 Prior to the occupation of any of the dwellings the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 10 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,
- HC30 Upon formation of the visibility splays as detailed in HC4 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.
- HC31 The area of each private drive and any turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.
- HC32 No storm water drainage from the site shall be allowed to discharge onto the county highway.

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

#### *First response:*

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

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

#### *Second response following receipt of amended plans:*

Having viewed the amended proposals I can advise my comments remain the same as of 17/01/2017. When drainage proposals are submitted I kindly ask we are reconsulted.

### Natural Resources Wales (NRW)

Thank you for consulting Natural Resources Wales (letter dated 13/01/2017) regarding the above.

We recommend that you should only grant planning permission if you attach the following conditions. These conditions would address significant concerns that we have identified and we would not object provided you attach them to the planning permission.

### **Summary of Conditions**

**Condition 1 – GCN:** The submission and implementation of a method statement including Reasonable Avoidance Measures (RAM) for GCN.

**Condition 2: Ecology – Bats:** The submission and implementation of an external lighting scheme that will minimise light spill on wildlife corridors.

**Condition 3: Ecology – EPS:** The submission and implementation of a Root Protection Area plan to protect the existing hedgerows and trees during the construction phase.

### **Protected Species**

We note that the Extended Phase One Habitat Survey report submitted in support of the above application dated November 2016 by Arbor Vitae Environment Ltd, has identified potential for presence of European Protected Species (EPS) on site, namely bat roosting potential within boundary trees and foraging areas for Great Crested Newts (GCN).

Bats, GCN, their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2010 (as amended). Any development that would contravene the protection afforded to bats under the Regulations would require a derogation licence from Natural Resources Wales. A licence may only be authorised if:

- i. There is no satisfactory alternative and
- ii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range. In addition,
- iii. the development works to be authorised must be for the purposes of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that your Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any EPS on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

- **Protected Species – GCN:**

NRW hold records of GCN road casualties along the main road 100m away from the proposal. It is therefore likely that this species uses the hedgerows and habitats alongside and near the road as part of their seasonal movements.

We consider that the development and its subsequent operation is not likely to be detrimental to the maintenance of the favourable conservation status of the GCN populations provided the RAMs measures recommended in section 5.2 of the survey report are implemented. In addition we would recommend further avoidance measures, namely:

- a. Excavated soil will be removed from the site immediately, alternatively
- b. Excavated soil will be stored in raised skips, trailers or containers on raised palettes.
- c. Construction materials such as rubble, timbers must be brought to the site daily or, if stored over time, then on a) raised palettes or timber bearers b) in trailers or in raised containers c) in raised bags or tarpaulings folded up and secured around the edges. No storage will take place on heavily vegetated areas or in close proximity to trees and hedgerows.

We note no consideration has been given to other aspects of the development that also have the potential to impact on GCN, such as water drainage schemes and kerb layout plans.

Amphibians are likely to get trapped in gully pots during migration and this can have a significant impact on the local population. Likewise, kerbs can impede road crossing by amphibians resulting in road deaths. Both impacts can be avoided / minimised by adopting amphibian friendly schemes.

We therefore recommend a method statement to address our concerns above is submitted to your authority prior to commencement of works (clearance and construction) on site.

**Condition 1 – GCN:** The submission and implementation of a method statement including Reasonable Avoidance Measures (RAM) for GCN.

- **Protected Species - Bats:**

The report has identified bat roosting potential within the mature boundary trees. We understand these trees are proposed for retention and integration within the proposal. Provided these trees are protected during the construction phase and a wildlife friendly exterior lighting scheme is implemented in the operational phase of the development we do not consider the proposal is likely to be detrimental to the maintenance of the favourable conservation status of any local bat populations.

Any security lighting must be installed in a way that minimises light spill in areas that could potentially be used by foraging and commuting bats (all tree lines and hedgerows surrounding the site).

Low level and low wattage, as well as low pressure sodium or high pressure sodium lamps, should be preferred to mercury or metal halide lamps.

**Condition 2: Ecology – Bats:** The submission and implementation of an external lighting scheme that will minimise light spill on wildlife corridors.

**Condition 3: Ecology – EPS:** The submission and implementation of a Root Protection Area plan to protect the existing hedgerows and trees during the construction phase.

### **Foul Drainage**

Government policy states that, where practicable, foul drainage should be discharged to the mains sewer. Where this is not possible and private sewage treatment / disposal facilities are utilised, they must be installed and maintained in accordance with British Standard 6297 and Approved Document H of the Building Regulations 2000. You should also have regard to Welsh Office Circular 10/99 in respect of planning requirements for non mains sewerage.

The applicant will need to apply for a Permit or Exemption, if they wish to discharge anything apart from uncontaminated surface water to a watercourse/ditch. They may also need to apply for a Permit from our National Permitting Team to allow certain discharges into ground.

They must obtain any necessary Permit prior to works starting on site. The Welsh Government has also advised that all septic tanks and small sewage treatment plant discharges in Wales will need to be registered. More information, including a step by step guide to registering, is available on our website [www.naturalresourceswales.gov.uk /](http://www.naturalresourceswales.gov.uk/)

[www.cyfoethnaturiolcymru.gov.uk](http://www.cyfoethnaturiolcymru.gov.uk)

### **Pollution Prevention**

Any waste excavation material or building waste generated in the course of the development must be disposed of satisfactorily in accordance with the Duty of Care requirements under Section 34 of the Environmental Protection Act 1990. The waste shall be transported using

registered waste carriers to suitably permitted or exempt sites. Transfer notes shall be kept for each load for a minimum of 2 years.

### **Scope of NRW Comments**

Our comments above only relate specifically to matters that are included on our checklist “Natural Resources Wales and Planning Consultations” (March 2015) which is published on our website: (<https://naturalresources.wales/planning-and-development/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, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

### **PCC Affordable Housing**

I am happy with the application as long as the following guidelines are adhered to:

- All Affordable units will have to be constructed to Welsh Government Design Quality Requirements which include all of the Lifetime Homes and Secured by Design Standards.
- All units will have to meet the floor areas specified in Powys County Council’s Affordable Housing Supplementary Planning Guidance.
- The Design Quality Requirements will be those current at the time of the detailed planning application.
- All completed Affordable units that are being sold must reflect local incomes to the local area and shall be bound by the Affordable Housing policies as detailed in the Affordable Housing for Local Needs Supplementary Guidance sections HP7, HP8 or HP9 sites.

### **Public Representations**

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

#### *Principle*

- Site is outside the UDP plan area and 4 bedroomed houses are not affordable housing to justify the grant of planning approval;
- There are already numerous building plots and houses for sale in the village including four affordable plots adjoin the site and these plots have remained undeveloped for many years due to lack of demand. Until these plots are constructed it seems folly to build on prime agricultural land;
- The dwellings will not be affordable;

#### *Highway access and parking*

- The appropriate visibility cannot be achieved due to the proximity of two mature trees on the north side of the access. Vehicles travel at considerable speed down the hill, round a blind corner, outside the 30mph zone and these trees are valuable to wildlife and buzzards are seen perching;



- Access meets the council highway in a very dangerous location – on the bend of a steep narrow country road, outside of the 30mph speed limit and there are no footpaths;
- Increase in traffic movements;
- The safety of children and elderly people walking to school, bus stops or around the village will need to be safeguarded. There are increasing numbers of articulated vehicles in the village;
- The development should be designed to ensure off street parking;

### *Sustainability*

- The supporting information states that public transport links are available within walking distance of the proposed development and the village is served by a bus service. The bus services comprises one bus on a Monday to Welshpool and one bus each day on Wednesdays and Fridays to Oswestry and therefore there are no transport links for commuting including rail;
- It is understood that the future of the school is in jeopardy. The proposed four bedroomed houses would not be affordable to most young families with primary school aged children. Starter homes would be much more appropriate to help regenerate the village but there is no demand for there is no demand, judging by the long vacant affordable plots;
- There is one half time post office but no real shop (mornings only);
- There is one public house;
- Transporting of children to schools outside the village increases the impact upon the environment;
- There is restricted employment opportunities;
- Planning Officer should be familiar with the Harlow New Town Report because the conclusions also apply to Pontrobert;

### *Surface water drainage*

- The land in Pontrobert is on boulder clay and increased run-off is a concern and soakaways may not be possible;

### *Impact upon character and appearance of the area*

- The village would be ruined by excessive development;
- The Council should not insist on white or cream rendered exterior walls because of the changes in the environment in recent years that causes maintenance problems;

### *Local Development Plan (LDP)*

- The site was previously deemed unsuitable for inclusion within the LDP;
- Questions regarding the housing proposals for future planning policy;

### *Water supply*

- Residents experience low water mains pressure and therefore question whether the infrastructure is sufficient;

### *Amenity*

- Since the poultry unit was erected at Dolobran Hall, if the wind is in an easterly direction, there is odour from the unit;

#### *Other matters*

- Improvements to the village could be made including additional shop/post office facilities, public toilets, enhanced floral entrances to the village, an additional notice board.

### **Planning History**

No history noted.

### **Principal Planning Constraints**

- Class 3 Road (C2031); and
- Outside of settlement development boundary.

### **Principal Planning Policies**

#### National Planning Policy

Planning Policy Wales (Edition, 9, November 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 12: Design (2016)

TAN 15: Development and Flood Risk (2004)

TAN 18: Transport (2007)

TAN 20: Planning and the Welsh Language (2013)

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

Letter from the Cabinet Secretary for Environment and Rural Affairs regarding the delivery of affordable homes through the planning system (2017)

#### 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 SP5 – Housing Developments  
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 GP5 – Welsh Language and Culture  
UDP ENV1 – Agricultural Land  
UDP ENV2 – Safeguarding the Landscape  
UDP ENV3 – Safeguarding Biodiversity and Natural Habitats  
UDP ENV7 – Protected Species  
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 DC8 – Public Water Supply  
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 and Local Development Plan (LDP)

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.

Public representations have referred to the site being submitted and rejected as a candidate site for the LDP. Members will be aware that the examination of the LDP is currently in progress and at this current time the UDP is current adopted plan used for determining

planning applications. For information purposes only, the entire field to which the application site forms part of was submitted as a candidate site for residential development as part of the LDP process. The Site Status report includes comments from Planning Policy as follows:

*'This is a slightly sloping site that would be a logical extension to the settlement. The site was considered as the UDP Inquiry 2006 but dismissed based on the fact there were already enough allocations in Pontrobert together with highways and land drainage issues. The highways constraint still remains making this site unsuitable for development'.*

### Procedure

Llangyniew Community Council and members of the public have stated that they were not informed of the application by letter. 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 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.

### Principle of development

As referred to within the response from the Community Council and within public representations, the proposed development lies wholly outside the development boundary of Pontrobert as detailed on inset map M186 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.

Pontrobert is classified as a small village within the Powys Unitary Development Plan and one site was allocated within the UDP for residential development (site M186 HA1 – Land OS0886 Yew Tree House extending to 0.7 ha) and this site has been developed.

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

Public representations have raised concern over the sustainability of the village particularly in terms of the future of the school, lack of transport links and employment opportunities. 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, Pontrobert is identified as a small 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 12 miles from Welshpool, 18 miles from Newtown, 20 miles

from Oswestry and 32 miles from Shrewsbury, however as public representations have stated, the bus service is limited in frequency.

In addition, comments within public representations regarding lack of employment opportunities in the settlement and threat of school closure are noted, however the settlement is typical of many settlements in Powys whereby travel to employment is common and the school is currently open. Whilst Pontrobert is classified as a small village within the UDP currently and UDP Policy HP4 indicates that the capacity of such small villages is generally sites up to 5 dwellings, it is noted that the direction of travel in the LDP is that Pontrobert is proposed to be upgraded. In addition, the services and facilities in Pontrobert are such that it is considered that the settlement has the capacity to accommodate 9 dwellings.

The site is detached from the settlement boundary of Pontrobert by approximately 30 metres with a dwelling approved as an affordable dwelling (Llywn Derw) sited between the site and the development boundary. Whilst the site is somewhat detached, it is considered that the site is reasonably well related to the settlement and with the provision of a new pedestrian footway to the existing footway outside Cofton, the site can be considered to accommodate a sustainable form of development.

Overall, taking all the above factors into account, 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

With regards to affordable housing provision, the Unitary Development Plan Policy HP7 requires, among other matters, the provision of affordable housing within applications for five or more dwellings. The proportion secured should be based on the extent and type of need identified by a robust data source. The Affordable Housing for Local Needs Supplementary Planning Guidance (SPG) states that the Council's starting point for affordable housing provision on schemes of more than 5 dwellings should be 30-35%. However, the Viability Assessment forming part of the evidence base for the Local Development Plan identifies a guideline of 10% affordable provision in this area of Powys. It is contended that the CIL Viability Assessment provides a more up to date and robust basis for determining the affordable housing contribution than the now historic "guideline" figure contained within the UDP and on that basis, the 10% provision figure suggested is considered to be reasonable in this instance.

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 one dwelling would equate to a lower proportion of affordable housing than that identified within the UDP, Development Management has taken account of the latest evidence on affordable housing as provided by the LDP evidence. Therefore, on this basis, it is considered that the provision of one unit as affordable housing is acceptable and it is recommended that 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

Public representations have raised concern over the impact of the development upon the character of Pontrobert. 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. The site is detached from the development boundary although it is noted that the site adjoins a dwelling known as Llwyn Derw which was approved as an affordable dwelling under planning reference numbers M/2006/0050 and M/2007/0556. The site rises from the south west to the north east and residential development would be visible from public vantage points including the adjacent highway and residential properties in the locality.

The indicative layout resembles a modern residential layout which is broadly comparable to the existing modern development seen in the settlement. More importantly it shows that up to 9 dwellings could be accommodated on the site at a density of 12 dwellings per hectare. Building densities in rural areas are often low but in order to make efficient use of land, densities will need to be increased. 27 dwellings per hectare is the figure that is being promoted by the Planning Policy team for use in the Local Development Plan for towns and large villages and thus the proposed development has a lower density. However, given the edge of settlement location and the character of residential development in Pontrobert, it is not considered that a higher density is required.

Detailed design will follow at a later date (if this application is permitted) and this will give the opportunity to ensure the dwellings are designed in an appropriate manner to accord with the character of the settlement. Such detailed design would consider external materials and as such the concern expressed in the public representations over the use of render would be considered at that stage.

The properties in the locality consist of a mixture of one and two storey detached properties, predominantly of brick and render with older properties being stone. The proposed scale of two storeys is not considered to be out of character with the locality. Overall a mix of three and four bedroom properties over two storeys are detailed within the scheme and this is considered to be appropriate.

Whilst the site would be visible from public vantage points including the public highway, neighbouring residential properties 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 reasonably related to the built form of the settlement, that landscaping measures would reduce the visual impact, it is considered that a satisfactory detailed design could come forward to reflect the overall character and appearance of the settlement and surrounding area.

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

UDP 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 odour from a poultry unit at Dolobran Hall.

The site is located adjacent to the property known as Llwyn Derw. The indicative layout demonstrates that the rear elevations of the most south westerly dwelling would be approximately 23 metres from the rear elevation of Llwyn Derw. This distance complies with the guidelines set out within the Residential Design Guide in respect of privacy and overshadowing.

In terms of the concern over odour from a nearby poultry unit, the poultry unit referred to within the public representations is located approximately 650 metres to the south east of the application site at Dolobran Hall. Development Management is currently processing an application for an extension to the poultry unit under reference P/2017/0007. Taking into account the distance between the application site and the poultry unit and that there are dwellings closer to the poultry unit, whilst odour from the existing unit may be encountered on some occasions, it is not considered that the frequency of odour at the given distance would cause an unacceptable impact upon the amenities enjoyed the occupants of the proposed dwellings. The impact of the proposed extension to the unit upon relevant neighbouring dwellings will be considered when the P/2017/0007 is determined.

Taking into account the character of existing development in the locality, 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 C2031 class three highway via a new vehicular access, outside of the 30mph speed limit zone. The Community Council and public representations have raised concern over the proposed means of access particularly in terms of additional traffic movements, poor visibility and traffic speeds.

Initially the Highway Authority objected to the proposal on the basis that the site was not sustainable because the scheme originally submitted did not provide improvements to the highway infrastructure to enable connection with the facilities offered in the village.

Amended plans have been received which demonstrate that a new pedestrian footway can be provided from the access in a southerly direction to meet the existing footway outside the dwelling known as Cofton. Following the receipt of amended plans, the Highway Authority has removed its objection and recommended conditions relating to the construction of the access and footway. Therefore, upon the advice of the Highway Authority it is concluded that an acceptable means of access can be achieved for the proposal in accordance with UDP Policy GP4.

The Highway Authority has recommended conditions relating to the provision of the footway and road widening together with the construction of access and off street parking. Access is a



reserved matter and as such the reserved matters submission would be required to include the details of the access in terms of visibility etc. Therefore, it is recommended that for clarity, a condition is attached to require the submission of details of the footway and road widening at the same time of the other reserved matters.

#### Impact on historic environment

##### *Impact upon setting of listed buildings*

The general duty with regards to listed buildings in exercising planning functions is set out within Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It states that the local planning authority shall have special regards to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses when considering whether to grant planning permission for a development. This duty is echoed in UDP Policy ENV14.

There are no listed structures immediately adjoining the development site but there are a number of listed features within the settlement of Pontrobert, the closest being located approximately 290 metres to the north west of the application site. Given the distance from the listed structures, the development is not considered to unacceptably adversely affect any listed structures in the locality.

#### Foul drainage

It is proposed to connect to the public sewerage system which is the preferred method of disposal. The Community Council has referred to concerns over the infrastructure of the village, although the exact concerns have not been identified. 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, public representations have referred to the ground conditions in the area being clay which is not suitable for soakaways. The submission indicates that surface water would be disposed via a sustainable drainage system. 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 not commented on the proposal.

Whilst the submission indicates that surface water would be disposed to a sustainable drainage system no further details have been included. Generally, the Council's Land Drainage Engineer advises that the use of soakaways and or other infiltration techniques

should be investigated in the first instance for surface water disposal. Porosity tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance for climate change. If soakaways are not feasible (as may be the case as indicated by public representations), drainage calculations to limit the discharge rate from the site no greater than the Greenfield run-off rate shall be applied. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year plus an allowance for climate change and will not cause flooding either on site or elsewhere in the vicinity.

Therefore, given that no drainage details have been submitted and taking into account the requirements of UDP Policy DC13, the advice received from Severn Trent Water and the general advice normally received from the Land Drainage Engineer, 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.

### Ecology

An ecological survey accompanies the application which identifies that there is the potential for European Protected Species on site, namely bat roosting potential within boundary trees and foraging areas for Great Crested Newts. NRW also holds records of Great Crested Newts in the locality.

In order to ensure protection and mitigation, NRW have recommended conditions requiring the submission and implementation of a method statement including Reasonable Avoidance Measures for Great Crested Newts, the submission and implementation of an external lighting scheme that will minimise light spill on wildlife corridors for bats and the submission and implementation of a Root Protection Area plan to protect the existing hedgerows and trees during the construction phase. These conditions are considered reasonable in order to ensure that the proposal complies with the relevant local and national planning policies and guidance in respect of ecology.

### Loss of agricultural land

Public representations have referred to the loss of prime agricultural land. UDP Policy ENV1 provides safeguarding for the best and most versatile land (grades 1, 2 and 3a). The land is not known to fall within grades 1, 2 and 3a and therefore is not considered to be of the best and most versatile agricultural land or of particular value to agriculture within the locality in accordance with the advice provided within UDP Policy ENV1 and Technical Advice Note 6.

### Public water supply

Public representations have referred to residents experiencing low water pressure in the settlement. The Community Council has also referred to concerns over the infrastructure of the village, although the exact concerns have not been identified. UDP Policy DC8 requires developments to be served by a wholesome and adequate water supply. Severn Trent Water has not objected to the proposal and has not advised that new or upgraded infrastructure is required as a result of the proposal and as such it is concluded that the proposal is not unacceptable in this respect. In addition, Under the Water Industry Act 1991 Severn Trent Water has a duty to provide a wholesome supply of mains water for public purposes, without

detriment to existing and as such members of the public should contact Severn Trent directly to express any concerns.

### Other legislation

#### *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)*

Pontrobert is a settlement where the Welsh language has been identified within the UDP as being important to the social, cultural and community fabric. 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. In terms of housing provision, one way in which the developer can demonstrate that the language has been taken into account is by ensuring that there is provision of affordable homes. This approach does not seek to restrict occupancy on grounds of linguistic criteria but recognises that those meeting the affordable housing eligibility criteria are more likely to be able to support the Welsh language and culture. Therefore, given that one of the dwellings will be limited by condition as an affordable dwelling, which is considered an appropriate level of affordable homes for the proposal, it is concluded that the development would assist in contributing to the well-being of the Welsh language in Powys.

#### *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**

Although it is noted that the proposed development is a departure from the adopted development plan, considerable weight must be given to the need to increasing housing land supply. The proposed development is for the provision of 9 dwellings in a sustainable location. It is considered that the material consideration of the lack of housing land supply within the county warrants the approval of this development contrary to the provisions of the development plan. Consideration has been given to all material planning matters and it is considered that all issues can be adequately dealt with through the imposition of conditions. It is recommended that the application is approved subject to the conditions set out below

### **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. No development shall take place until a method statement including Reasonable Avoidance Measures (RAM) for Great Crested Newts is submitted to and approved in writing

by the Local Planning Authority. The RAMs must include the measures recommended in section 5.2 of the Extended Phase One Habitat Survey dated November 2016 are implemented. In addition further avoidance measures shall be included, namely:

- a. Excavated soil will be removed from the site immediately, alternatively
- b. Excavated soil will be stored in raised skips, trailers or containers on raised palettes.
- c. Construction materials such as rubble, timbers must be brought to the site daily or, if stored over time, then on a) raised palettes or timber bearers b) in trailers or in raised containers c) in raised bags or tarpaulings folded up and secured around the edges. No storage will take place on heavily vegetated areas or in close proximity to trees and hedgerows. The development shall be carried out in accordance with the approved method statement.

7. No development shall commence until an external lighting scheme to minimise light spill on wildlife corridors is submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

8. The development hereby permitted shall 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.

9. Upon the submission of the reserved matters referred to within Conditions 1 and 2, the landscaping details shall include a Root Protection Area plan to protect the existing hedgerows and trees during the construction phase. The approved plan shall be implemented during the construction phase.

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 Class III C2031 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 C2031 and construction of a footway shall be fully completed.

11. 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.

12. 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.

## **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 protection of an European Protected Species (Great Crested Newts) in accordance with Policy ENV7 of the Powys Unitary Development Plan (2010), Planning Policy Wales (2016) and Technical Advice Note 5: Nature Conservation and Planning (2009).

7. To minimise impacts on an European Protected Species (bats) in accordance with Policy ENV7 of the Powys Unitary Development Plan (2010), Technical Advice Note 5: Nature Conservation and Planning (2009) and Planning Policy Wales (2016).

8. 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).

9. To ensure a satisfactory and well planned development and to preserve and enhance habitat for protected species, the quality of the environment, visual amenity and privacy in accordance with Policies GP1, ENV2 and ENV3 of the Powys Unitary Development Plan (2010), Planning Policy Wales (2016) and Technical Advice Note 5: Nature Conservation and Planning (2009).

10. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.

11. 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.

12. 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).

## **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.

*Please note the comments from Natural Resources Wales in respect of the ecology conditions:*

recommend further avoidance measures, namely:

- a. Excavated soil will be removed from the site immediately, alternatively
- b. Excavated soil will be stored in raised skips, trailers or containers on raised palettes.
- c. Construction materials such as rubble, timbers must be brought to the site daily or, if stored over time, then on a) raised palettes or timber bearers b) in trailers or in raised

containers c) in raised bags or tarpaulings folded up and secured around the edges. No storage will take place on heavily vegetated areas or in close proximity to trees and hedgerows.

We note no consideration has been given to other aspects of the development that also have the potential to impact on GCN, such as water drainage schemes and kerb layout plans. Amphibians are likely to get trapped in gully pots during migration and this can have a significant impact on the local population. Likewise, kerbs can impede road crossing by amphibians resulting in road deaths. Both impacts can be avoided / minimised by adopting amphibian friendly schemes.

We therefore recommend a method statement to address our concerns above is submitted to your authority prior to commencement of works (clearance and construction) on site.

The report has identified bat roosting potential within the mature boundary trees. We understand these trees are proposed for retention and integration within the proposal.

Provided these trees are protected during the construction phase and a wildlife friendly exterior lighting scheme is implemented in the operational phase of the development we do not consider the proposal is likely to be detrimental to the maintenance of the favourable conservation status of any local bat populations.

Any security lighting must be installed in a way that minimises light spill in areas that could potentially be used by foraging and commuting bats (all tree lines and hedgerows surrounding the site).

Low level and low wattage, as well as low pressure sodium or high pressure sodium lamps, should be preferred to mercury or metal halide lamps.