

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

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| <b>Application No:</b>    | P/2016/0719  | <b>Grid Ref:</b>   | 321782.49 320221.57                      |
| <b>Community Council:</b> | Llansantffraid   | <b>Valid Date:</b> | <b>Officer:</b><br>26/07/2016 Kate Bowen |
| <b>Applicant:</b>         | Mr R Roberts, Messrs Roberts, Land adj to Dyffryn Foel, Llansantffraid, Powys, SY22 6DG                        |                    |  |
| <b>Location:</b>          | Land adj to Dyffryn Foel, Llansantffraid, Powys, SY22 6DG  |                    |  |
| <b>Proposal:</b>          | An outline application for the erection of 16 no. dwellings and all associated works with all matters reserved |                    |  |
| <b>Application Type:</b>  | Application for Outline Planning Permission  |                    |  |

### **UPDATE REPORT**

#### **Reason for Update**

Additional representations from members of the public have been received following the preparation of the earlier update report.

#### **Public Representations**

One further public representation has been submitted on behalf of two households located in the residential housing estate of Dyffryn Foel and is copied below:

Unfortunately we will not be available to attend, we would have if able to and, would have reiterated the contents of our previous correspondence and concerns. We included concerns for the mature trees/ trees in which the removal is now the full length of this significant tree line which is situated on the proposed development together with the impact on the Bats not having their natural flight paths or habit. Additional light pollution would also impact the Bats and the local residents. This proposal also being outside the development area and the impact in general to the area as a whole with regards to the increased strains to the local school, increased traffic, increased footfall, increased noise pollution as outlined in our previous correspondence.

#### **Officer Appraisal**

##### Principle of Development

As public representations have stated, the proposed development lies wholly outside the settlement boundary of Llansantffraid Ym Mechain, as detailed on inset map M165, and would result in up to 16 dwellings being constructed outside the settlement boundary and as such is a departure from the development plan.

The original Committee report concluded that considerable weight must be given to the need to increasing housing land supply where the proposed development is for the provision of 16 dwellings in a sustainable location.

### Landscape and visual impacts

As referred to within public representations, the revised plans indicate that the proposal would result in the loss of a section of hedgerow to accommodate the vehicular access. There is also a mature tree in the north eastern corner of the application site which may need to be felled, although it is shown to be retained on the indicative layout. Hedgerow planting behind the visibility splays of the access is shown on the indicative layout plan and landscaping is also a reserved matter to be further considered at a later stage.

As stated within the previous update report, whilst the site would be visible from public vantage points and the proposal would result in a visual change in comparison to the current agricultural use, taking into account the location adjacent to existing residential properties, the development is considered to be acceptable. Furthermore, taking into account the character of existing development in the locality, and that landscaping measures would reduce the visual impact and the proposed scale of the development is considered to reflect the character of the development that has occurred within Llansantffraid, it is considered that a satisfactory detailed design including landscaping measures could come forward to reflect the vernacular character and appearance of the settlement and surrounding area.

### Ecology

As stated within the previous update report and referred to within public representations, the proposal could affect vegetation (the mature tree located in the north eastern corner of the application site in particular) which could have potential as a bat tree roost. The response on behalf of the Council's Ecologist has recommended that the mature tree in particular should be retained and protected from damage during construction works via conditions and the implementation of a tree protection plan in accordance with BS5837:2012 and an informative attached in respect of the potential for bats. In addition, it is recommended that mitigation and enhancement for the loss of the hedgerow in the form of bird and bat boxes are provided and hedgerow translocation.

Therefore, as concluded within the original report and the previous update report, subject to the use of conditions and additionally informatives, it is considered that the proposal would not unacceptably affect ecological interests.

### Impact on highway network and parking arrangements

The Local Highway Authority is satisfied that the development and access off the A495 highway will not be detrimental to highway safety, subject to the conditions set out within the Highway Authority's response. Access is a reserved matter and full details of the scheme will be considered at the later stage.

### Impact on residential amenity

The impact upon the amenities enjoyed by occupiers of existing neighbouring properties and the proposed dwellings was primarily considered in terms of impact upon privacy and overshadowing. Public representations have also raised concern over increased light levels, noise pollution, traffic generation and general disturbance as a result of the development.

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 including from levels of light, noise or any other planning matter.

In terms of noise, it is appreciated that there will be noise during the construction phase as well as additional noise from the occupants of residential properties and disturbance from additional traffic movements. However, given that the site is located between residential properties which are similar land uses to that proposed and that the relocated access would remove vehicular movements for the proposed development from travelling via the residential estate of Dyffryn Foel, it is not considered that this would cause an unacceptable effect on the existing dwellings.

In terms of light pollution, paragraph 13.13.2 of Planning Policy Wales (PPW) states:

*‘There is a need to balance the provision of lighting to enhance safety and security to help in the prevention of crime and to allow activities like sport and recreation to take place with the need to:*

- protect the natural and historic environment including wildlife;*
- retain dark skies where appropriate;*
- prevent glare and respect the amenity of neighbouring land uses; and*
- reduce the carbon emissions associated with lighting.*

*Lighting to provide security can be particularly important in rural areas’.*

Furthermore, paragraph 13.15.3 of PPW states that:

*‘Local authorities can attach conditions to planning permissions for new developments that include the design and operation of lighting systems (for example, requiring energy-efficient design) and prevent light pollution’.*

Whilst it is appreciated that there would be increased lighting provision for the proposed development from street lighting as well as private lighting inside and externally at the dwellings, given that the application site is located between existing residential housing developments within a settlement, it is not considered that this would cause an unacceptable effect on the existing dwellings.

### Education

Public representations have raised concern over an increased strain on the local school. Within the original Committee report, Members will note that the School Services Section of Powys County Council requested a contribution from the developer to serve the existing school in Llansantffraid that is over capacity. Further comments have not been received from the School Services Section prior to the preparation of this Update Report. It is noted that

previous developments have secured some funding and together with the proposed funding, it will enable the provision of an additional classroom. This contribution has been included within the section 106 agreement instructions to the Legal Department, although it is understood that the exact monetary figure is still under negotiation.

## **RECOMMENDATION**

Consideration has been given to all material planning matters and it is concluded that all issues can be adequately dealt with through the imposition of conditions or through planning obligations. It was and still 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.

It is recommended that the application be approved subject to the conditions set out below and subject to the applicant entering into a Section 106 agreement to secure the following:

- Provision of affordable housing
- A management agreement for on-site open space/play area (to secure provision, retention and maintenance).
- Education contribution

## **Conditions**

1. Details of the access, layout, appearance, landscaping 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. A scaled plan showing the location of the affordable residential units shall be submitted to the Local Planning Authority at the same time as the other reserved matters referred to in Condition No. 1.
5. An affordable housing phasing statement detailing the precise phasing (completion details) of the affordable units proposed shall be submitted for approval at the same time as the other reserved matters referred to in Condition No. 1. The development shall be implemented in full accordance with the approved scheme.
6. The affordable dwellings shall have a maximum gross floor area of 130 square metres (measured internally and including garages where designed as an integral part of the dwelling) and notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), the

affordable dwelling shall not be subject to extensions, roof alterations and buildings other than those expressly authorised by the reserved matters approval.

7. The development hereby permitted must be served by the public foul sewerage system (mains) prior to the occupation of any of the units.

8. No development shall commence until a scheme for the surface water and land drainage of the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before any dwellings are occupied.

9. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons (*a contaminated land specialist with proven experience within the contaminated land industry*) and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*' and the WLGA document '*Development of land affected by contamination: a guide for developers*' 2012 .

*Item (iii) above should not be submitted until written approval has been obtained from the Local Planning Authority for items (i) & (ii).*

10. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990, The Contaminated Land (Wales) Regulations 2001 in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 9 has been received from the Local Planning Authority.

11. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning

Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority. *The verification report contents must be agreed with the Local Planning Authority before commencement of the remediation scheme.*

12. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 9, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 10, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 11.

13. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the Local Planning Authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

14. The recommendations in Section 6 of the Ecological Report Arbro Vitae Environment 04/07/16 regarding Bats, Hedgerows Breeding Birds lighting, and Ecological enhancement shall be adhered to and implemented in full.

15. Prior to commencement of development, a detailed Ecological Enhancement Plan, Lighting Plan, Hedgerow and Tree Protection Plan and Planting Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.

## **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. In order to identify the affordable residential unit, in accordance with Policy HP7 of the Unitary Development Plan (2010).

5 & 6. In order to ensure the provision of affordable housing in accordance with Policy of HP7 of the Powys Unitary Development Plan (2010) and the Affordable Housing for Local Needs Supplementary Planning Guidance (2011).

7. To ensure that development is served by the public system in accordance with policy DC10 of the Powys Unitary Development Plan.

8. To ensure that the proposed surface water drainage system for the site are fully compliant with regulations and are of robust design in accordance with policy DC13 of the Powys Unitary Development Plan.

9 to 13. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DC15 of the Powys Unitary Development Plan.

14. To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

15. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

### **Informatives:**

Please note the following advice in respect of ecology:

The following sensitive felling procedure is recommended to minimise disturbance to bat populations.

- Where tree felling or lopping is planned, such work should only be carried out between September and February to avoid the bird-breeding season.
- If the tree trunk is smaller than 200mm diameter **and** if it has no dense ivy, suitable holes, loose bark, and no holes associated with the root system, work can be carried out on the tree between September and February (ie avoiding the bird breeding season).
- To avoid disturbing nursery roosts, work will **never** be carried out between June and August inclusive.
- If the tree does have any of the features listed above or has a trunk size greater than 200mm, it should only be cut **only** in September and October when bats, including young are still mobile and able to fly-out.
- Any timber cut should be left lying on the ground for at least 24 hours to allow bats the opportunity to escape.
- Where the loss of mature trees is unavoidable, compensatory planting with appropriate locally native species, preferably of local provenance, should be undertaken.

As mitigation for the loss of the mature tree, three additional bird and bat boxes on or near the site should be incorporated into the Ecological Enhancement plan required by condition 15.

Any removed hedgerow should be translocated to areas within the development site instead of buying and planting new stock and this should be set out within the proposed landscaping scheme. If translocation is not feasible the Ecological Enhancement plan should also consider opportunities for new hedgerow and tree planting as landscaping within the development and a locally-occurring, native species list will be required.

## **Birds - Wildlife and Countryside Act 1981 (as amended)**

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

## **Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)**

It is an offence for any person to:

- Intentionally kill, injure or take any bats.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.

Under the Habitats Regulations it is an offence to:

- Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk)