

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: P/2017/0315 **Grid Ref:** 291351.89 301721.3
Community Council: Llanbrynmair **Valid Date:** 23/03/2017 **Officer:** Eddie Hrustanovic
Applicant: Mr RW Morgan, Dolfach Caetwpa, Llanbrynmair, Powys
Location: Land adj to Bwlch yr Laen, Dolfach, Llanbrynmair, Powys, SY19 7AG
Proposal: Outline - Residential development for 2 dwellings including formation of a vehicular access and associated works
Application Type: Application for Outline Planning Permission

The 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 within village of Dolfach, along A470 Trunk Road which is south of the site, and a small cluster of dwellings east of the site together with a small estate access road. Dolfach is classified as a Rural Settlement within Powys Unitary Development Plan. The application site forms a part of a larger field currently in agricultural use which is bounded by post and wire fence facing the Trunk Road. There are number of properties opposite the application site with intervening highway between. Village of Llanbrynmair is approximately 1 mile northwest from the site.

The application is submitted in outline with access to be considered at the outline stage. The originally submitted scheme proposed development of up to nine dwellings; however this has been now reduced down to two at the request of Development Management.

The access will be gained of Bwlch yr Laen Lane, opposite the existing dwellings leading to a private drive providing access, turning and parking facilities for each dwelling.

The length of properties will vary between 8-15m and width ranging from 6-12m. The ridge heights will vary between 5.5m to 8.5m. The revised application site has an area of 0.17 hectares.

Consultee Response

Llanbrynmair CC

No reply received

PCC Highways

Wish the following recommendations/Observations be applied

HC1 Prior to the occupation of the dwelling 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.

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.

HC8 Prior to the occupation of any dwelling, 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 together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

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.

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.

HC29 All surface water run-off is to be collected and discharged via a piped system to a soakaway located within the site no less than 6 metres from the highway. This system shall be retained and maintained for 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.

In the interests of highway safety.

Welsh Government Highways

I refer to your consultation of 12th June 2017 regarding the above application and advise that the Welsh Government as highway authority for the A470 trunk road does not issue a direction in respect of this application.

Wales and West Utilities

You will note the presence of our intermediate/High Pressure gas main(s) in proximity to the site. No excavations are to take place above or within 10m of the confirmed position of these mains without prior consultation with Wales & West Utilities.

Severn Trent Water

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

PCC Environmental Health

Thank you for your consultation in respect of this application. I note that the applicant is intending to connect to the main sewer and I therefore have no objection to this application.

PCC Ecologist

Ecological Topic		Observations
EIA Screening Requirement	No	The site area is understood to be 0.39 hectares and includes up to 9 dwellings. Therefore, the development is not considered to meet or exceed the thresholds of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 for the screening of dwelling house developments for EIA since it does not exceed five hectares; include more than 150 dwellings; or include more than one hectare of urban development that is not a dwelling house development.
Ecological Information included with application	No	<p>No ecological information has been submitted with this application. These observations are based on an interpretation of available aerial and street imagery and historical biodiversity records provided by the Powys Biodiversity Information Service.</p> <p>The application site appears to be located within an agricultural field grazed by sheep and is bounded by a hedgerow to the west and south. The majority of these hedgerows would appear to be retained by the proposal, but a small section of the southern hedgerow would be removed to create a footway access point.</p>
Protected Species & Habitats ¹	European Species <input checked="" type="checkbox"/>	<p>Historic records of European protected species from the vicinity of the site are sparse, but there are records of a brown Long-eared bat roost to the west and an unknown bat species from the north of the site. No bat roosts or potential bat roosts would appear to be lost as a result of the proposals. However, the western and southern hedgerows are likely to provide linear commuting and foraging habitat for a range of bat species.</p> <p>Given the proximity of development works to surrounding hedgerows, it is considered prudent to require information from the applicant as to how these features of biodiversity importance for wildlife will be protected during the construction period of works.</p> <p>If additional lighting is required I recommend that a sensitive lighting scheme is implemented to avoid any negative impacts on nocturnal wildlife, including bats, which may use the boundary hedgerow habitats.</p> <p>It would seem likely that the creation of the new footway</p>

¹ Species records within 1km (minimum). Change distance dependant on project type, scale, etc.

		access point would require the removal of a small section of hedgerow. I suggest that any removed hedgerow is translocated to areas within the development site instead of buying and planting new stock.
	UK Species <input checked="" type="checkbox"/>	<p>There are historic records of badger and nesting bird species from the vicinity of the site; the boundary hedgerow to the west and south offers suitable habitat for a range of nesting bird species.</p> <p>I recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p>
	Section 7 Species & Habitat <input checked="" type="checkbox"/>	<p>The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>Hedgerows are a Section 7 Priority Habitat and those present within the site are to be retained, except for a small section that would be removed for access. I have recommended that these hedgerows are protected during the construction phase and that the small section of hedgerow removed for footway access is translocated to a suitable location within the site.</p> <p>The proposed new hedgerow planting and tree planting within the site is welcomed and should consist of native, locally-occurring species.</p>
	LBAP Species & Habitat <input checked="" type="checkbox"/>	See previous observations.
Protected Sites	International Sites ² <input type="checkbox"/>	None within the search area.

² Identify International designated site within 2km of the proposals. Consider International sites within 15km of proposals with bats as qualifying features, and 10km with otters as qualifying features if the proposal is likely to affect these features.

	National Sites ³ <input type="checkbox"/>	None within the search area.
	Local Sites (within 500m) <input type="checkbox"/>	None within the search area.
Invasive Non-Native Species	Unknown	No ecological information has been submitted with the application.
Summary of recommendations / further assessment or work		<p>The western and southern hedgerows are likely to provide linear commuting and foraging habitat for a range of bat species and other wildlife. Given the proximity of development works to surrounding hedgerows, it is considered prudent to require information from the applicant as to how these features of biodiversity importance for wildlife will be protected during the construction period of works.</p> <p>If additional lighting is required I recommend that a sensitive lighting scheme is implemented to avoid any negative impacts on nocturnal wildlife, including bats, which may use the boundary hedgerow habitats.</p> <p>It would seem likely that the creation of the new footway access point would require the removal of a small section of hedgerow. I suggest that any removed hedgerow is translocated to areas within the development site instead of buying and planting new stock.</p> <p>I recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p> <p>The proposed new hedgerow planting and tree planting within the site is welcomed and should consist of native, locally-occurring species.</p>
Recommended Conditions		<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>Prior to commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into</i></p>

³ Any designated sites within 500m of the proposal, extending to 2km dependant on features of interest i.e. wetlands (Powys LDP)

consideration shall be submitted for written LPA approval.

Reason: 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 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

Prior to commencement of development, a Species List for the Landscape Planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: 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 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

Informative

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

	<p>disturb the dependent young of such a bird.</p> <p>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.</p> <p>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.</p>
Relevant UDP Policies	<p>SP3 Natural, Historic and Built Heritage</p> <p>ENV 2: Safeguard the Landscape</p> <p>ENV 3: Safeguard Biodiversity and Natural Habitats</p> <p>ENV 6: Sites of Regional and Local Importance</p> <p>ENV 7: Protected Species</p>
Comments on Additional Information	N/A

Cllr Dai Jones

Requested that the application is determined by the Members (*please note that following elections Cllr. D Jones has now been replaced by Cllr. D Jones-Poston*).

Representations

11 letters of objection and a petition from the local residents has been received in respect of this application.

In summary the objections relate to:

- No need for addition housing in the area,
- No local or employment facilities in Dolfach,
- Increase in traffic movements,
- Poor drainage at the site,
- Loss of view and devaluation of private properties,
- Inadequate public transport provision in the area,
- The proposal is speculative development and not in interests of community.

Planning History

None recorded.

Principal Planning Constraints

- Rural Settlement
- A470 Trunk Road

Principal Planning Policies

National Planning Policy

Planning Policy Wales (Edition 9, 2016)

TAN 1: Joint Housing Land Availability Studies (2015)
TAN 2: Planning and Affordable Housing (2006)
TAN 5: Nature Conservation and Planning (2009)
TAN 6: Planning for Sustainable Rural Communities (2010)
TAN 12: Design (2016)
TAN 15: Development and Flood Risk (2004)
TAN 18: Transport (2007)

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

Welsh Office Circular 13/97 - Planning Obligations

Local Planning Policy

Powys Unitary Development Plan (2010)

UDP SP1 – Social, Community and Cultural Sustainability
UDP SP2 - Strategic Settlement Hierarchy
UDP SP5 – Housing Developments
UDP 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 HP9 - Affordable Housing in Rural Settlements
UDP HP10 – Affordability Criteria
UDP TR2 – Tourist Attractions and Development Areas
UDP DC10 – Mains Sewerage Treatment
UDP DC13 – Surface Water Drainage

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

Powys Residential Design Guide (2004)

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

Officer Appraisal

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

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

Principle of Development

The development site is located within the settlement of Dolfach which is designated in the Powys Unitary Development Plan as a rural settlement. The proposal is for two detached dwellings. In such circumstances policy HP9 – affordable housing in rural settlements is applicable. This policy permits single affordable units providing that they are integrated within the settlement, the occupants would comply with the appropriate eligibility criteria (contained within policy HP10) and the dwelling would comply with the scale requirements set out for affordable housing (contained within policy HP10 and the affordable housing SPG). The proposed development would result in construction of two open market dwellings within designated rural settlement and would therefore be contrary to the Unitary Development Plan.

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.

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 (2016) states as follows:

“The housing land supply should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies”.

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

Principle of sustainable development

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.

The public representations are acknowledged and it is accepted that Dolfach lacks of basic services, nevertheless the village is only approximately 1 mile away from Llanbrynmair which is classed as a large Village in Powys UDP that is served by a range of community service, such as shops, post office, garage, and primary school.

In this instance it is also important to note that Dolfach is located on a regular bus route serving Machynlleth - Newtown via Llanbrynmair and vice versa (every two hours). Having clarified with the bus operator the Officers understand that the bus operating on this route will also stop in Dolfach on demand and other places along the route depending on demand of the passengers. Therefore, on balance Officers consider that proposal for up to two additional residential units in this instance would accord with the provisions of Planning Policy Wales as it is considered to be a sustainable location.

Design and layout and impact upon surrounding area – landscape and visual impacts

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 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 indicative layout and scale indicates two, two storey dwellings, with garages sited off the adoptable road. The layout demonstrates that the site can accommodate two dwellings and detailed design would follow at reserved matters stage, if this outline application receives consent which would provide the opportunity to ensure that the dwellings have an acceptable appearance and design. The immediate surrounding properties consist of a mixture of one and two storey detached properties with a mixed palette of materials; including brick, render

and timber. Therefore, the proposed scale of two storeys is not considered to be out of character with the locality.

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

A number of the public representations have expressed their concerns regarding the visual impact of the proposal on the area. It is acknowledged that the site would be visible from public vantage points including the public highway and that the proposal would result in a visual change in comparison to the current agricultural use of the open field. Taking into account the location opposite the cluster dwellings at Dolfach and along the approach road to the Village, 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, the proposed scale for up to two dwellings is considered to reflect the character of the development that has already occurred along the highway at Dolfach. It is therefore considered that a satisfactory detailed design could come forward to reflect the overall character and appearance of the settlement and surrounding area. As such, the proposal is considered to comply with UDP Policy ENV2.

Public Right of Way

The site is not crossed by any designated Rights of Way.

Residential amenity

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.

The site is located opposite number of properties with intervening A470 trunk road between at a distance of approximately 10 metres from the southern boundary of the application site and adjacent bungalow on eastern elevation. The existing dwelling is also set back from the trunk road but adjacent to existing estate road leading towards the terraced properties at Bwlch yr Laen, with intervening hedge between.

The Residential Design Guide states that the acceptable distance between front elevations should normally be determined by character of road widths in the area. Whilst the layout is indicative to demonstrate that two dwellings can be achieved on the site and as such the detailed layout will be considered at reserved matters stage. Given the separation of the site by the highway from the cluster of dwellings opposite the site, it is considered that there is sufficient distance across the intervening highway to ensure the protection of amenities enjoyed by the existing and proposed occupants. In addition, further consideration can be given to this element when the detailed design is considered.

In terms of overshadowing, the Residential Design Guide advises that where new development is less than 40 metres from the nearest habitable room and where the main front or rear (not flank) elevations of existing development is affected, the height of new development should generally be set below a line of 25 degrees taken from the nearest

habitable room of adjoining existing property at a height of 2 metres. Whilst this distance is less than 40 metres in this instance given the separation of the site by intervening highway (properties to the south of the site), however careful design should take into account adjacent bungalow to the east of the site in order to avoid possible overshadowing. This aspect could be further controlled at the reserved matter stage.

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

Highways and Infrastructure

Access would be gained via newly created access point to east side of the application site which is to be directly gained off Bwlch yr Laen, and the indicative plan demonstrates that adequate highway access including visibility, turning and parking would be provided within the site in accordance with UDP Policy GP4.

The Highway Authority has not objected to the proposal and has recommended a number of conditions. Furthermore, Welsh Government Highways have not objected to the scheme. Taking into account the consultee responses, subject to the use of conditions, it is considered that the proposal would make adequate provision for highway access, parking and turning in accordance with UDP Policy GP4.

Foul sewage disposal

It is proposed to connect to the public sewerage system which is the preferred method of disposal. Severn Trent Water has advised that they have no objection to the development and therefore Development Management is satisfied that the 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.

Surface water disposal

UDP Policy DC13 requires proposals to make adequate provision for land drainage and surface water disposal. The submission states that surface water would be disposed of via soakaways but no further details have been provided at this stage.

The site is classed as Greenfield. Therefore, proposed surface water flows should be equivalent to existing Greenfield run-off in accordance with the principles of TAN15 – Development and Flood Risk and good practice drainage design. The use of soakaways and or other infiltration techniques should be investigated in the first instance for surface water disposal. If soakaways are not feasible, drainage attenuation to limit the discharge rate from the site no greater than the Greenfield run-off rate should be applied. This is generally controlled via planning conditions with full details of a drainage scheme coming in at reserved matters stage or prior to commencement of development.

In order to ensure that adequate provision for surface water drainage would be made, a condition must be imposed on any consent granted to require the submission and implementation of a satisfactory drainage scheme.

Ecology

The Council acknowledges the need to protect biodiversity from adverse development through careful monitoring, maintenance and the protection of habitats and species worthy of conservation. Therefore the nature conservation policies in the UDP seek to safeguard and enhance biodiversity, and these objectives are also echoed in national policy (TAN5 and Planning Policy Wales).

The application site appears to be located within an agricultural field grazed by sheep and is bounded by a hedgerow to the west and south. The County Ecologist notes that the majority of these hedgerows would appear to be retained by the proposal, but a small section of the southern hedgerow would be removed to create a footway access point.

Historic records of European protected species from the vicinity of the site are sparse, but there are records of a brown Long-eared bat roost to the west and an unknown bat species from the north of the site. No bat roosts or potential bat roosts would appear to be lost as a result of the proposals. However, the western and southern hedgerows are likely to provide linear commuting and foraging habitat for a range of bat species.

Given the proximity of development works to surrounding hedgerows, it is considered prudent to require information from the applicant as to how these features of biodiversity importance for wildlife will be protected during the construction period of works. The Officers also note that if additional lighting is required it is recommended that a sensitive lighting scheme is implemented to avoid any negative impacts on nocturnal wildlife, including bats, which may use the boundary hedgerow habitats.

Subject to the use of appropriate conditions as advised by the ecologist, it is considered that the proposal would comply with the relevant nature conservation and biodiversity policies of the UDP and the objectives of Planning Policy Wales and TAN 5: Nature Conservation and Planning.

Loss of agricultural land

UDP Policy ENV1 provides safeguarding for the best and most versatile land. 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.

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. Given the scale of the development it is considered that there would be no unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

Wellbeing of Future Generations (Wales) Act 2015

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

Recommendation

Whilst the proposal is a departure from the development plan, the Council's current lack of housing land supply carries significant weight in favour of this development and given that the proposal would otherwise comply with development plan and national planning policies, the recommendation is one of conditional consent

Conditions

1. Details of the 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 and the access point onto Bwlch yr Lane (drawing no: RPP/TW/JOB13-03-Rev C).
5. No development shall commence until details of a scheme for the disposal of foul and surface water has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the first occupation of the dwellings hereby permitted and retained in perpetuity.
6. Prior to commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted and approved in writing by the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.
7. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.
8. Prior to commencement of development, a Species List for the Landscape Planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.
9. All landscape works shall be carried out in accordance with the details approved at the reserved matters stage. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.
10. Prior to the occupation of the dwellings 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.
11. 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.

12. Prior to the occupation of any 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 together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

13. 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.

14. All surface water run-off is to be collected and discharged via a piped system to a soakaway located within the site no less than 6 metres from the highway. This system shall be retained and maintained for as long as the development remains in existence.

15. 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.

16. No storm water drainage from the site shall be allowed to discharge onto the county highway.

17. An investigation and risk assessment, in addition to any assessment provided with the planning application, shall be completed prior to the commencement of development. 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 shall be conducted in accordance with DEFRA and NRW'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).

18. 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 1 has been received from the Local Planning Authority.

19. 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.

20. 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 the above conditions.

21. 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'.

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. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating 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).

6. 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 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
7. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.
8. 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 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
9. To ensure a satisfactory and well planned development and to preserve and enhance the quality of the natural environment, visual amenity and privacy in accordance with Policies GP1, ENV2, ENV3 and SP3 of the Powys Unitary Development Plan (2010), Technical Advice Note 5: Nature Conservation and Planning (2009) and Planning Policy Wales (Edition 8, 2016).
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 highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
12. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
13. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
14. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
15. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
16. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
17. 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 (March 2010) and Planning Policy Wales (2016).
18. 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 (March 2010) and Planning Policy Wales (2016).
19. 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 (March 2010) and Planning Policy Wales (2016).

20. 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 (March 2010) and Planning Policy Wales (2016).

21. 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 (March 2010) and Planning Policy Wales (2016).

Informative Notes

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.

Gas mains

You will note the presence of our intermedeate/High Pressure gas main(s) in proximity to the site. no excavations are to take place above or within 10m of the confirmed position of these mains without prior consultation with Wales & West Utilities.