

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2017/0815	Grid Ref:	311728.83 263867.71
Community Council:	Penybont	Valid Date:	Officer: 13/07/2017 Kevin Straw
Applicant:	Brightwells Ltd, 33 High Street, Builth Wells, Powys, LD2 3DL.		
Location:	Land off Old Market Meadows, Penybont, Llandrindod Wells, Powys, LD1 5US.		
Proposal:	Outline: Residential development for up to 5 dwellings with garages, formation of access road and all associated works.		
Application Type:	Application for Outline Planning Permission.		

The reason for Committee determination

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

Site Location and Description

The site is indicated to cover an area of 0.33 hectares and is located to the east of Penybont. The site is considered to lay part within and part outside of the development boundary of Penybont, as indicated in Inset Map R83 of the Powys UDP.

The site is currently open agricultural grassland and is bound by the A44 to the north-east, existing dwellings to the north-west and with a cemetery to the immediate west. To the south-west there is agricultural grassland leading down to the River Ithon; a residential dwelling is located to the south-east of the site with an existing farm holding located due south. The proposed site is to be accessed via a driveway linking to Market Meadows, which in turn links out to the A44.

Consent is sought in outline with all matters reserved, for the development of up to 5 new dwellings with garages, formation of access road and all associated works.

Consultee Response

Penybont Community Council

Penybont Council met on 8th August and resolved to make no objections to this application. However, they are concerned that the long-established car parking area to the cemetery will be lost to an access road and this should be taken into consideration by the owners.

PCC Highways

Comments received on 18/08/2017:

The County Council as Highway Authority for the County Class I Highway, A44; wish the following recommendations/Observations be applied.

Recommendations/Observations

The Highway Authority has no fundamental objection to this proposal, however it is noted that width of the proposed access at 4.2m, does accord with the 5m access approved under the original consent PR6300/00. It is the opinion of the Highway Authority that a minimum access width of 4.8 metres is required to afford simultaneous access and egress from such an access.

The applicant is therefore advised to reconsider the width of the access, if sufficient land is available, or provide requisite detail to demonstrate that the access as proposed is capable of providing simultaneous access and egress. This information is required before the application is determined.

Additional comments received on 19/09/2017:

Thank you for providing the revised access detail as shown on drawing 3145 (03)01 Revision B. The detail submitted clearly demonstrates that an appropriate vehicular access can be provided to serve the site and therefore the Highway Authority has no objection to the proposal.

Appropriate highway conditions will be provided at the Reserved Matters stage.

PCC Building Control

Building regulations will be required, if you require any further information please do not hesitate to contact me.

Wales & West Utilities

Old Market Meadows, Penybont, Llandrindod Wells, Powys, LD1 5US.

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.

PCC Environmental Health

Comments received on 26/07/2017:

Due to the close proximity of the A44 I will require a traffic noise assessment to be undertaken, also if foul drainage is to be discharged to soakaway then a porosity test will also need to be submitted. If the discharge will be to the river, consent will be needed from the NRW.

Additional comments received on 06/10/2017:

The noise report supplied in support of this application is clear in that the proposed dwellings will need to be designed to accommodate noise from the A44, suitable acoustic glazing which would result in the need for alternative methods of ventilation as the windows will not be of an openable design will need to be incorporated.

The biggest area of concern is with regard to plots 2 and 3 as they are the closest to a cattle grid and the report demonstrates that this will be of a high volume and impulse in nature. I would strongly recommend that the applicant seeks advice from Highways to ascertain if there are options open to reduce the level of noise from the cattle grid, at their expense.

With regards to the dwellings I would suggest the following condition be attached should permission be granted. The figure of 30dB (A) is the level at which above, sleep disturbance is experienced.

The building envelope of plot numbers 1, 2, 3, 4 shall be constructed so as to provide sound attenuation against the external noise of 55dB (A), with windows shut and other means of ventilation provided, the internal volume of habitable rooms shall be 30 dB(A). A written attenuation and Ventilation scheme shall be supplied to the Planning Authority and agreed in writing prior to construction.

The sound attenuation works shall be completed before the use of the building begins and thereafter retained in perpetuity and.

Additional comments received on 13/10/2017:

As per the recent communication please find my comments for the above application.

Condition:

A scheme for sound insulation and noise control measures shall be submitted to and approved in writing by the Local Planning Authority prior any superstructure works commencing on site.

The sound insulation and noise control measures shall achieve the following internal noise targets (in line with BS 8233:2014):

Bedrooms (23.00-07.00 hrs) 30dB LAeq, 8 hour and 45dB Lmax (fast)

Living/dining Rooms (07.00-23.00 hrs) 35dB LAeq, 16 hour and

Living/Dining Rooms (23.00-07.00 hrs) 30dB LAeq, 16 hour.

The sound insulation and noise control measures shall be carried out strictly in accordance with the details so approved, shall be implemented prior to the first occupation of the development hereby approved, shall be maintained as such thereafter and no change there from shall take place without the prior written consent of the Local Planning Authority.

Reason: To ensure appropriate internal acoustic amenity levels for future residents.

PCC Ecologist

Comments received on 15/08/2017:

Thank you for consulting me with regards to the planning application P/2017/0815 which concerns an outline application for residential development for up to 4 dwellings with garages, formation of access road and all associated works at Land off Old Market Meadows, Penybont, Llandrindod Wells, Powys.

I have reviewed the proposed plans, aerial images as well as local records of protected and priority species and designated sites within 500m of the proposed development. The data search identified 60 records of protected and priority species within 500m of the proposed development – there are no records for the site itself.

There are two statutory designated sites are present within 500m of the proposed development site.

- River Ithon – SSSI
- River Wye – SAC

There are no non-statutory designated sites present within 500m of the proposed development site.

The proposed development is within close proximity <90m to the River Ithon SSSI which is part of the River Wye SAC. As such the potential for the proposed development to impact the River Wye SAC during the construction and/or operation phases of the proposed development and potential for a Likely Significant Effect to the Wye River SAC and/or its associated features has been considered.

Given the proximity of the proposed development to watercourses connected to the River Wye SAC and the nature of the proposed development it is considered that there is a potential for the proposed development to impact the River Wye SAC and that pollution from construction activities could result in a Significant Effect, it is therefore considered that to demonstrate that the proposed development would not result in a Likely Significant Effect the River Wye SAC and/or its associated features a Pollution Prevention Plan will need to be identified to ensure no negative impact is caused during construction activities and during operation of the site – this information is required to be submitted prior to determination of the application and to enable a Habitats Regulations Screening to be undertaken.

I note that identification of the need for a Pollution Prevention Plan to ensure no negative impacts to the River Wye SAC was also identified in section 5.2 of the submitted Ecological Survey.

Therefore it is considered that further information is required to enable the LPA to assess the potential impacts of the proposed development the River Wye SAC – A European Designated Site – in accordance with Regulation 61 of the Conservation of Habitats and

Species Regulations 2010 (as amended). This information is required to be submitted prior to any further works of the development.

It is recommended that the identified Pollution Prevention Plan refers to guidance identified in to the Pollution Prevention Guidelines Series in particular PPG 6 - Working at construction and demolition sites and GPP 5 – Works and maintenance in or near water; these documents can be found at:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

An extended Phase 1 ecological survey of the proposed developed land was undertaken by Dusk to Dawn Ecology Ltd dated July 2017. I have reviewed the Extended Phase 1 Ecology Report, I consider that the survey effort employed was in accordance with National Guidelines.

The Extended Phase 1 ecological survey consisted of a combination of desktop searches and a site visit which took place on the 23rd May 2017. Surveys that were undertaken during the site visit included an extended Phase 1 habitat survey and protected fauna surveys and assessments. At the time of the site visit the field was grazed by horses. The grassland within the site is considered to be species poor semi improved grassland. Hedgerow along the east, south and western boundary are not considered as important hedgerow as the hedgerows lack diversity – whilst these features lack species diversity it should be noted that linear habitat features are a Powys LBAP habitat.

The ecology survey noted that the development is unlikely to result in the loss of any habitat suitable for great crested newts, otters, or hazel dormice and as such no further surveys for these species are recommended.

It was considered that the hedgerow and field may be used by small numbers of common bat species for commuting and foraging. The site is considered to have some potential for foraging and commuting use by badgers, however no further survey work is deemed necessary.

No birds nest were found during the site visit, however appropriate steps and mitigation for nesting birds have been recommended to be undertaken as part of the development.

The site was assessed as low potential for reptiles however the root system of the hedgerow had limited potential to be used by reptiles for hibernation and commuting purposes. Therefore precautionary measures are recommended if hedgerow is required to be removed. The UDP policies ENV2 and ENV6 identify the need to protect or provide compensation for impacts to hedgerows and trees. UDP Policy ENV2 states that:
'Proposals which are acceptable in principal should:

3. Seek to conserve native woodlands, trees and hedgerows'

UDP Policy ENV6: Sites of Regional and Local Importance, makes reference to Powys LBAP habitats and species which include hedgerows under the Linear Habitats Action Plan – 'Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value'. Hedgerows are also listed as a

"habitat of principal importance for the purposes of conserving biodiversity" as identified in on Section 7 of the Environment (Wales) Act 2016, and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi.

As such I recommend that a Tree Protection Plan is secured through an appropriately worded condition where it is necessary to remove any trees or hedgerow this plan will need to identify appropriate compensation planting for the loss of these features to maintain the important foraging commuting features used by bats and other species at the site – details of the location, length and species as well as an appropriate aftercare scheme will need to be identified – species used will need to be native and reflect the hedgerows present in the local area. As identified the submission of this information could be secured through a planning condition.

Section 6 of the Ecological report provided mitigation and recommendation provision which include retention on the hedgerow boundary, implementation of a root protection zone, timings of work regarding hedgerow removal, provision of bird boxes and gaps under proposed fencing for small mammals. I consider these measure acceptable and appropriate for the habitats present on site.

If it is proposed to provide landscaping as part of the potential development consideration should be given to the development of a native landscape planting scheme. It is recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules. A Landscaping Plan could be secured through a planning condition, however as further information has been requested the provisions of details submitted at this stage would avoid the need for a pre-commencement condition requiring this information.

Careful consideration will need to be given to any external lighting design provided through the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area. It is therefore recommended that a Wildlife Sensitive Lighting Plan is secured through an appropriately worded condition.

As the application is an outline application further details will be submitted at a later date as reserved matter consideration should be given to incorporate biodiversity enhancements. In accordance with Part 1 Section 6 of the Environment (Wales) Act 2016 Local Authorities are required to Maintain and Enhance biodiversity through all of its functions – this includes the planning process. It is therefore recommend that consideration is given to opportunities to incorporate biodiversity enhancements to ensure net biodiversity benefits through the proposed development. These measure could include:

- Provision of bird and bat boxes including the details of the number, type and location of these boxes;
- A wildlife buffer strip and a scheme of appropriate management of these areas, hedgerows should be retained within buffer strips and should be unlit or lighting to be directed away from the hedgerows to create dark movement corridors for nocturnal wildlife through the site;
- Provision of wildlife friendly landscape planting.

Should biodiversity enhancement measures such as the bird nesting boxes - be proposed as part of the development details of these features identified will need to be specific and

detailed on submitted plans (i.e. details regarding locations, dimensions and numbers will need to be provided) and achievable.

Additional comments received on 12/10/2017:

Thank you for consulting me with regards to the additional information submitted in relation to planning application P/2017/0815.

The additional information submitted has been provided in response to a request for further information to enable the LPA to assess the potential impacts of the proposed development to biodiversity, in particular with regards to the River Ithon SSSI which is part of the River Wye SAC - statutory designated site.

The proposed development is within close proximity <85m to a River Wye SAC as such the potential for the proposed development to impact the River Wye SAC during the construction and operation phases of the development and likelihood to result in a Likely Significant Effect to the River Wye SAC and/or its associated features has been considered.

Having reviewed the information submitted in the form of a Pollution Prevention Statement it has been determined that the proposed development would not result in a likely significant effect to the River Wye SAC and/or its associated features – I have attached a copy of the Screening Assessment for your records.

In addition to my previous response sent 15th August 2017 - should you be minded to approve the application I recommend inclusion of the following conditions:

The Pollution Prevention Plan produced by asbri Planning dated on the September 2017 shall be adhered to and implemented in full and maintained thereafter unless otherwise agreed in writing by the LPA.

Reason: To comply with Powys County Council's UDP Policies ENV3, ENV4, ENV5 and ENV6 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 Part 1 Section 6 of the Environment (Wales) Act.

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 Part 1 Section 6 of the Environment (Wales) Act.

Prior to the commencement of development a detailed lighting design scheme to take into account any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval 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, ENV3 and ENV7 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 Part 1 Section 6 of the Environment (Wales) Act.

Prior to the commencement of development a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition.

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 Part 1 Section 6 of the Environment (Wales) Act 2016.

PCC Commons Registration

Thank you for your consultation email received on 20/07/2017 concerning the above application.

From the information provided on the Powys Planning Portal, I can confirm that the application site at Grid Ref: 311728,263867 as shown edged red on the Site Location Plan, ABUTS land to the east, that is registered as common land under the Commons Registration Act 1965 as Register Unit No. CL 14 (Radnor) and known as Rhos-Swydd Common and shown on the attached copy of the Register Map.

Commons Registration Records show that:

- The owners of the common are Mrs Diana Batty of 127 Headlands, Kettering, Northants NN15 6AD and Mrs Hermione R Twiss of 19 Rylet Rd, London W12 9SS
- The Common is subject to grazing rights.

The Applicant should therefore ensure that:

- The public access 'on foot' granted by the Countryside and Rights of Way Act 2000 must not be impeded or prevented at any time.
- There is no encroachment onto the common during the construction phase of the development i.e. building materials must not be stored on the common.
- Any inadvertent damage caused is made good as soon as possible

NRW

Comments received on 11/08/2017:

Can you confirm what type of foul drainage the applicant is proposing for the above application? We've got records of a main sewer within close proximity of the site.

Additional comments received on 11/08/2017:

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 25/07/2016.

We have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if the scheme can meet the following requirements. We would object if the scheme does not meet these requirements.

Requirement 1 – The possibility of connecting to the foul sewer to be thoroughly investigated prior to determination of the planning application

Foul Drainage

We note that the application documentation includes documents from B M Evans Groundwork & Drainage dated 18th of May 2017 which includes a percolation test for the proposed site. The letter confirms that the applicant is proposing to install a package treatment plant.

We would be opposed to a proposal to install a private treatment facility as detailed in the Foul Proposals letter dated 18th May 2017 unless the developer can demonstrate that it is not reasonable to connect to the public system.

Government policy states that, where practicable, foul drainage should be discharged to the mains sewer. Our definition of a sewered area for a single dwelling is where the site area is within 33 metres of the nearest public foul sewer line. Where proposals are for more than one dwelling, the distance is multiplied by the number of units proposed, i.e. in this instance $33\text{m} \times 4 = 132\text{m}$.

Requirement 1 – The possibility of connecting to the foul sewer to be thoroughly investigated prior to determination of the planning application.

In order to therefore confirm the method of disposing foul sewage from the development prior to the determination of the planning, the applicant is advised to thoroughly investigate the possibility of connecting to the foul sewer by taking the following steps:

1. Formally approach the sewerage undertaker regarding a connection under Section 98 or Section 106 of the Water Industry Act (WIA) 1991, as appropriate
2. Serve notice for connection under Section 98 or Section 106 of the WIA 1991 if the sewerage undertaker has refused connection
3. Provide details of the reasons given by the sewerage undertaker if it has refused connection under Section 106 of the WIA 1991 and confirm that this decision has been appealed to Ofwat

OR:

Provide details of the undertakings, security and payment required by the sewerage undertaker under Section 98 of the WIA 1991.

Provide confirmation that the applicant considers these to be reasonable and does not intend to appeal against them.

4. Demonstrate that it is not reasonable to connect to the public foul sewer

Lack of capacity or absence of future plans to improve capacity in the main sewer are not valid reasons for a sewerage undertaker to refuse connection under Section 106 of the Water

Industry Act 1991. We may refuse to issue an Environmental Permit or exemption for private treatment facilities if these are the sole reason for non-connection.

Notwithstanding the above advice, the Applicant should be aware that should a connection to the mains sewer not be feasible, they will be required to apply for a permit for the operation of a non-mains drainage facility. It should be noted that at that stage, further information may be required as part of the permit application.

Should it be demonstrated that it is not feasible to connect to the mains we would advise the Applicant to hold pre-application discussions with our Permitting Team at the earliest opportunity, to try to ensure that there is no conflict between any planning permission granted and the NRW permit requirements.

Protected Species

Bats and their roosts are protected under the Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended). We advise that you should consult your internal ecologist with regards to the potential impact of the proposed development on the favourable conservation status of populations of bats.

The site has been subject to ecological survey and assessment in respect of statutory protected species by Reported Dusk to Dawn Ecology Ltd dated 3rd of July 2017. We consider that this assessment has been carried out to a satisfactory standard and we therefore concur with the conclusion. The results of the survey found no evidence of the surveyed buildings being used or having been used by bats.

The recommendation section should be implemented and if bats are found at any time during the development works, the works should cease immediately and NRW or a licenced bat worker be contacted for further advice.

Please do not hesitate to contact us if you require further information or clarification on any of the above.

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.

Additional comments received on 04/09/2017:

Apologies for the delay in our response, we've received further information regarding the proposed method of foul waste. This has demonstrated that they will be connecting to the main sewer which is our preferred option.

We assume that the drainage strategy will be a formal document associated with the application. The information submitted has satisfied our previous requirement.

Representations

Following display of a site notice on 21/07/2017 there have been no public representations made.

Planning History

None.

Principal Planning Constraints

Radnor Common Land RCL014, Penybont (Rhos-Swydd)

Principal Planning Policies

National Planning Policy

Planning Policy Wales (9th Edition, November 2016)

Technical Advice Note 1 - Joint Housing Land Availability Study (2015)

Technical Advice Note 2 - Planning and Affordable Housing (2006)

Technical Advice Note 5 - Nature Conservation and Planning (2009)

Technical Advice Note 11 – Noise (1997)

Technical Advice Note 12 - Design (2016)

Technical Advice Note 15 – Development and Flood Risk (2004)

Technical Advice Note 18 – Transport (2007)

Technical Advice Note 20- Planning and the Welsh Language (2017)

Technical Advice Note 23 - Economic Development (2014)

Local Planning Policies

SP2 - Strategic Settlement Hierarchy

SP3 - Natural, Historic and Built Environment

SP4 - Economic and Employment Developments

SP5 - Housing Development

SP6 - Development and Transport

SP9 – Local Community Services and Facilities

GP1 - Development Control

GP2 – Planning Obligations

GP3 - Design and Energy Conservation

GP4 - Highway and Parking Requirements

ENV1 - Agricultural Land

ENV2 - Safeguarding the Landscape

ENV3 - Safeguarding Biodiversity and Natural Habitats

ENV4 – Internationally important Sites

ENV5 – Nationally Important Sites

ENV6 – Sites of Regional and Local Importance

ENV7 – Protected Species
HP3 - Housing Land Availability
HP4 - Settlement Development Boundaries and Capacities
HP5 - Residential Development
HP6 - Dwellings in the Open Countryside
CS3 – Additional Demand for Community Facilities
RL6 – Rights of Way and Access to the Countryside
T2 - Traffic Management
DC8 – Public Water Supply
DC9 – Protection of Water Resources
DC10 - Mains Sewerage Treatment
DC13 - Surface Water Drainage
TR2 – Tourist Attractions and Development Areas/

Affordable Housing for Local Needs Supplementary Planning Guidance (SPG) (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 application site is located partially outside but adjoins the settlement development limits for Penybont as defined by the Powys Unitary Development Plan (2010). 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 as 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 latest 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”.

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.

Sustainability

When providing additional housing it is important to consider whether the scheme can be considered to be within a sustainable development. This can relate to a wide range of matters including public transport provision and access to education, employment opportunities and other services.

Penybont is considered a large village in the UDP. Whilst large villages do not have as wide a range of services and facilities as the area centres, they normally act as an important service hub to the surrounding area. It is noted that the settlement of Penybont is served by a number of facilities including a pub, community centre, trotting race track and football pitch. The village also benefits from good transport links to surrounding settlements including the larger settlements of Crossgates and Llandrindod Wells. Penybont is also serviced by a railway station (located outside the village boundary limits, as part of the Heart of Wales line).

The application site does lay part within and part outside of the development boundary of Penybont and is considered to link to the edge of the village via existing footways and the road network.

In light of the above the site is considered to be situated within a sustainable location.

Affordable housing provision

The Unitary Development Plan Policy HP7 requires the provision of affordable housing within applications for five or more dwellings or sites of 0.3 hectares and over. It is noted that this application seeks consent for five dwellings and as such a single affordable dwelling is being provided. Subject to appropriately worded conditions it is considered that the proposed development fundamentally complies with relevant planning policy.

Design and layout

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 a later point in time, it is relevant to consider whether the number of dwellings proposed could be appropriately developed on the site.

The indicative layout resembles a modern residential layout which is broadly comparable to those as seen in the settlement. More importantly it shows that up to 5 dwellings could be accommodated on the site.

Although Officers acknowledge that all matters relating to this application have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating 5 dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

Landscape and Visual Impact

UDP Policy ENV2 states that proposals should 'take account of the high quality of the landscape throughout Powys and be appropriate and sensitive to the character and surrounding landscape'. It goes on to state that proposals which are acceptable in principle should 'contain appropriate measures to ensure satisfactory integration into the landscape'.

The site occupies an edge of settlement location which adjoins open countryside and therefore the locality is considered to be sensitive to visual change.

In terms of landscaping the indicative layout plan indicates that there will be existing hedgerows retained within the site to the east, west and south. It is noted that landscaping is reserved as a future matter for consideration and therefore detailed proposals would be considered at a later stage.

Whilst the proposal would result in a visual change in comparison to the current use, taking into account the location on the edge of settlement, it is considered that the proposal is acceptable and in accordance with Policy ENV2 of the UDP.

Highway Safety

UDP policy GP4 confirms that in the interests of highway safety, all development proposals that generate or involve traffic must be provided with an adequate means of access including visibility, parking and turning facilities.

The proposed development will be accessed from Market Meadows.

Consultation with the highways Authority did not raise any fundamental objections, however the officer did indicate that the initial proposed access at 4.2 metres was insufficient and that a revised plan would be required improving this aspect. Following the submission of an amended plan the officer confirmed that detail submitted clearly demonstrated that an appropriate vehicular access can be provided to serve the site; as such the Highway Authority had no objection to the proposal.

The officer indicated that appropriate highway conditions would be provided at the Reserved Matters stage, given that access is a reserved matter.

In light of the officers comments it is therefore considered that the development does not have a detrimental impact upon highway safety, access and parking and therefore fundamentally complies with policy GP4 of the Powys Unitary Development Plan (2010).

Drainage

PCC Environmental Health and NRW were consulted with regard to drainage.

The PCC officer noted that if foul drainage is to be discharged to soakaway then a porosity test will need to be submitted; if however the discharge will be to the river, then consent will be needed from the NRW.

Initial comments from NRW requested confirmation of what type of foul drainage the applicant is proposing. NRW indicated that they had records of a main sewer within close proximity of the site. NRW indicated in their comments that they would oppose a proposal to install a private treatment facility as detailed in the Foul Proposals letter dated 18th May 2017 unless the developer can demonstrate that it is not reasonable to connect to the public system.

Following the provision of additional information for consideration NRW provided further comments. They indicated that they had received further information regarding the proposed method of foul waste. This information had demonstrated that they will be connecting to the main sewer which is their preferred option. NRW confirmed that the information submitted had satisfied their previous requirement.

In light of the above it is considered that the proposals fundamentally comply with Policy DC10 of the Powys Unitary Development Plan (2010).

Biodiversity

The PCC Ecologist and NRW have provided comments with regard to the proposed development.

The PCC Ecologist stated that they had reviewed the proposed plans, aerial images as well as local records of protected and priority species and designated sites within 500m of the proposed development. The data search identified 60 records of protected and priority species within 500m of the proposed development, however there were no records for the site itself. The officer indicated that there are two statutory designated sites are present within 500m of the proposed development site; namely the River Ithon – SSSI and the River Wye –

SAC. There are no non-statutory designated sites present within 500m of the proposed development site.

The officer noted that the proposed development is within close proximity, i.e. less than 90 metres to the River Ithon SSSI, which is part of the River Wye SAC. As such the potential for the proposed development to impact the River Wye SAC during the construction and/or operation phases of the proposed development and potential for a Likely Significant Effect to the Wye River SAC and/or its associated features has been considered.

The officer stated that given the proximity of the proposed development to watercourses connected to the River Wye SAC and the nature of the proposed development it is considered that there is a potential for the proposed development to impact the River Wye SAC and that pollution from construction activities could result in a Significant Effect, it is therefore considered that to demonstrate that the proposed development would not result in a Likely Significant Effect the River Wye SAC and/or its associated features a Pollution Prevention Plan will need to be provided.

The officer went on to comment that an extended Phase 1 ecological survey of the proposed developed land was undertaken by Dusk to Dawn Ecology Ltd dated July 2017. The officer had reviewed the Extended Phase 1 Ecology Report and considered that the survey effort employed was in accordance with National Guidelines.

The ecology survey noted that the development is unlikely to result in the loss of any habitat suitable for great crested newts, otters, or hazel dormice and as such no further surveys for these species are recommended.

It was considered that the hedgerow and field may be used by small numbers of common bat species for commuting and foraging. The site is considered to have some potential for foraging and commuting use by badgers, however no further survey work is deemed necessary. No birds nest were found during the site visit, however appropriate steps and mitigation for nesting birds have been recommended to be undertaken as part of the development.

The site was assessed as low potential for reptiles however the root system of the hedgerow had limited potential to be used by reptiles for hibernation and commuting purposes. Therefore precautionary measures are recommended if any hedgerow is required to be removed.

The officer also considered other aspects as detailed within the report covering landscaping and external lighting; the officer commented that these aspects would be covered by suitable conditions attached to any decision notice issued.

Following the provision of the requested Pollution Prevention information the officer provided additional comments. They stated that having reviewed the information submitted in the form of a Pollution Prevention Statement it has been determined that the proposed development would not result in a likely significant effect to the River Wye SAC and/or its associated features. The officer provided the Habitats Regulations Assessment Screening Report for note.

In connection with their previous comments the officer recommended a series of appropriate conditions to be attached to any decision notice issued.

Comments in respect of local Biodiversity from NRW stated that Bats and their roosts are protected under the Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended).

The comments noted that the site has been subject to an ecological survey and assessment in respect of statutory protected species by Reported Dusk to Dawn Ecology Ltd dated 3rd of July 2017. NRW considered that this assessment had been carried out to a satisfactory standard and they therefore concur with the conclusion. The results of the survey found no evidence of the surveyed buildings being used or having been used by bats.

NRW indicated that the recommendation section of the report should be implemented and if bats are found at any time during the development works, the works should cease immediately and NRW or a licenced bat worker be contacted for further advice.

In light of the above and subject to the inclusion of appropriately worded conditions it is considered that the proposals fundamentally comply with policies ENV2, ENV3 and ENV7 of the Powys Unitary Development Plan (2010).

Local Amenity

Consideration has been given to the proposed development of up to 5 dwellings in this location with regard to potential adverse impact upon local amenity. Whilst it is noted that all matters are reserved for a future date, consideration has been given to the proposed site plan provided. It is considered that any potential likely adverse impacts upon existing neighbouring dwellings can be addressed through design and should be considered at the reserved matters stage.

Comments received from PCC Environmental Health raised initial concern as to the proximity of the A44 to the site and associated traffic noise for the proposed dwellings once constructed. The officer requested the provision of a traffic noise assessment for further consideration. Following provision of the report the officer provided additional comments. The officer indicated that the noise report supplied in support of this application is clear in that the proposed dwellings will need to be designed to accommodate noise from the A44, suitable acoustic glazing which would result in the need for alternative methods of ventilation as the windows will not be of an openable design will need to be incorporated.

The officer noted that the biggest area of concern was with regard to plots 2 and 3 as they were the closest to a cattle grid and the report demonstrates that this will be of a high volume and impulse in nature.

Following these comments further discussions were undertaken between the applicant and the officer. As a result the officer provided a final comment which raised no objections and in which they recommended the inclusion of a suitably worded condition to be attached to any decision notice issued.

In light of the above and subject to the inclusion of appropriately worded condition it is considered that the proposals fundamentally comply with relevant planning policy.

Common Land

Comments received from the PCC Common Land Registration officer indicate the site is situated abutting a registered common. An informative provided by the officer will be attached to any decision notice issued.

Community Council

Comments received from the local community council indicate that whilst they have no objections they do raise concern as to the retention of the car parking area to the cemetery. Having reviewed the proposed site plan (3145 (03)01 Rev.B) it is noted that cemetery parking bays are clearly indicated and as such the provision of parking for visitors to the cemetery is indicated to be available.

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.

Policy GP5 indicates certain settlements where the Welsh Language has been identified as being important to the social, cultural and community fabric. Penybont is not identified as being one of those settlements under GP5. However, it is considered that Welsh Language is a material consideration across the County.

From the 2011 census for the Penybont Ward there was a slight increase in the number of people speaking Welsh (3 years of age and above) from the 2001 census (12.7% up to 12.8%).

Given the scale of the proposed development and the provision of affordable housing it is not considered that the proposal would have an unacceptable adverse impact on Welsh Language and culture.

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.

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 a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval.

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. A scheme for sound insulation and noise control measures shall be submitted to and approved in writing by the Local Planning Authority prior to any works commencing on site.

The sound insulation and noise control measures shall achieve the following internal noise targets (in line with BS 8233:2014):

Bedrooms (23.00-07.00 hrs) 30dB LAeq, 8 hour and 45dB Lmax (fast)
Living/dining Rooms (07.00-23.00 hrs) 35dB LAeq, 16 hour and
Living/Dining Rooms (23.00-07.00 hrs) 30dB LAeq, 16 hour.

The sound insulation and noise control measures shall be carried out strictly in accordance with the details so approved. They shall be implemented prior to the first occupation of the development hereby approved and shall be maintained as such thereafter.

5. The Pollution Prevention Plan produced by Asbri Planning dated September 2017 shall be adhered to and implemented in full and maintained thereafter.

6. 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.

7. Prior to the first installation of any external lighting a detailed lighting design scheme to take into account any impacts on nocturnal wildlife into consideration shall be submitted for written Local Planning Authority approval and implemented as approved and maintained thereafter.

8. 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 30% 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.

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 appropriate internal acoustic amenity levels for future residents.

5. To comply with Powys County Council's UDP Policies ENV3, ENV4, ENV5 and ENV6 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 Part 1 Section 6 of the Environment (Wales) Act.

6. 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 Part 1 Section 6 of the Environment (Wales) Act.

7. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 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 Part 1 Section 6 of the Environment (Wales) Act.

8. In accordance with policy HP7 and HP10 of the Unitary Development Plan (March 2010)

Informative Notes

Common Land

The Applicant should therefore ensure that:

- The public access 'on foot' granted by the Countryside and Rights of Way Act 2000 must not be impeded or prevented at any time.
- There is no encroachment onto the common during the construction phase of the development i.e. building materials must not be stored on the common.
- Any inadvertent damage caused is made good as soon as possible.

NRW

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.

Case Officer: Kevin Straw - Planning Officer
Tel: 01597 827092 E-mail: kevin.straw@powys.gov.uk