

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

<b>Application No:</b>	P/2017/1082	<b>Grid Ref:</b>	321185.91 240277.97
<b>Community Council:</b>	Llanigon	<b>Valid Date:</b>	<b>Officer:</b> 27/09/2017 Thomas Goodman
<b>Applicant:</b>	Mr S Hodges, Llanthomas Lane, Waters Edge, Llanigon, Hereford, Powys, HR3 5PU		
<b>Location:</b>	Waters Edge, Llanthomas Lane, Llanigon, Hereford, Powys, HR3 5PU		
<b>Proposal:</b>	Reserved matters application in regards to P/2017/0211 for the erection of a dwelling		
<b>Application Type:</b>	Application for Approval of Reserved Matters		

### The reason for Committee determination

Cllr Evans has called the application in based on the grounds of the proximity of neighbouring dwellings and that the proposed development would be overlooking upon neighbouring properties.

### Site Location and Description

The proposed development is located within the settlement development boundary of Llanigon as defined by the Powys Unitary Development Plan (2010). To the north and west of the application site are agricultural fields. To the south is an existing dwelling known as Waters Edge and running to the east is the C0074 which provides the access to the site.

Consent has already been granted at Outline stage for the erection of a new detached dwelling in this location with matters relating to access, appearance, landscaping, layout and scale reserved for future consideration. This application is to consider whether the matters relating to access, appearance, landscaping, layout and scale are acceptable. The proposed development will measure approximately 17.3 metres in length by 10.3 metres in width. The height of the dwelling to ridge height is approximately 7.2 metres and to eaves is approximately 5 metres. The walls will be constructed using red brick and larch cladding under a tiled roof.

This application is for seeks to secure consent for details such as access, appearance, landscaping, layout and scale.

### Consultee Response

Llanigon CC

No response received at the time of writing this report.

## Powys Highways

*Consultation response received 13/10/17:*

The County Council as Highway Authority for the County Class III Highway, C0074

Wish the following recommendations/Observations be applied  
Recommendations/Observations

This application fails to incorporate the required access improvements recommended by the Highway Authority during the outline application 2017/0211. Whilst the submitted Block Plan would suggest that access visibility from a 2.4m setback is available in a northerly direction, in reality, visibility is completely obstructed by the existing boundary hedgerows in both directions. I would therefore request that a new drawing be submitted, accurately detailing 25m of visibility to the north and south of the new access from a 2.4m setback. The drawing should also accurately detail a gate position, 5.5m from the edge of the existing county highway.

Whilst these requirements will inevitably require the relocation of the existing boundary hedge, the provision of suitable levels of access visibility is a fundamental requirement which was made clear by the Highway Authority during the outline process.

*Consultation response received 02/11/17:*

The access and visibility improvements submitted on drawing HLND011 are acceptable. Accordingly I recommend that the following conditions be attached to any consent granted.

- No development shall commence until provision is 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 0.35 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.
- No other development shall commence until the access has been constructed so that there is a clear visibility splay from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 25 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
- Upon formation of the visibility splays as detailed above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.
- Before any other development is commenced 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 5.5 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.

- Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 3 cars 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.
- Prior to the occupation of the dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 5.5 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.
- Any entrance gates erected shall be set back at least 5.5 metres distant from the edge of the adjoining carriageway and 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.
- No storm water drainage from the site shall be allowed to discharge onto the county highway.

### Powys Building Control

Just to advise that a building regulation application will need to be submitted for this scheme.

### Wales and West Utilities

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

### Welsh Water

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

#### Sewerage

Having had an opportunity to review the application submission package, we advise that the proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. This was also stated in our previous consultation response for the original planning application P/2017/021. Dwr Cymru Welsh Water requires access to its apparatus at all times in order to carry out maintenance and repairs; however, having regard to drawing reference: HLND00 (proposed block plan), we note the position of the dwelling has been moved within the site compared to the proposed block plan (drawing reference: HL002) submitted with the original planning application. Therefore it now appears the proposed development would be situated within the protection zone of the public sewer measured 3 metres either side of the centreline. It is possible to divert the sewer if the developer applies under Section 185 of the Water Industry Act and we request that they contact us to discuss our concerns and consider possible solutions.

Alternatively we recommend the proposed development is repositioned to accommodate for the required protection zone.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

If you have any queries please contact the undersigned on 0800 917 2652 or via email at [developer.services@dwrcymru.com](mailto:developer.services@dwrcymru.com)

## NRW

We have no additional comments to make with regards to this application. Please refer to the comments we made at outline stage (letter dated 7/3/17 CAS-30019-C5R0) as these are still relevant.

*NRW consultation dated 07/03/2017 in relation to the Outline application P/2017/0211 for eas of reference:*

“Thank you for consulting Natural Resources Wales (letter dated 23/02/2017) regarding the above.

NRW does not object to the proposal. In our opinion, as explained below, the proposal is not likely to adversely affect any of the interests listed.

## Foul Drainage

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

The applicant will need to apply for a Permit or Exemption, if they wish to discharge anything apart from uncontaminated surface water to a watercourse/ditch. They may also need to apply for a Permit from our National Permitting Team to allow certain discharges into ground. They must obtain any necessary Permit prior to works starting on site. The Welsh Government has also advised that all septic tanks and small sewage treatment plant discharges in Wales will need to be registered. More information, including a step by step guide to registering, is available on our website [www.naturalresourceswales.gov.uk](http://www.naturalresourceswales.gov.uk) / [www.cyfoethnaturiolcymru.gov.uk](http://www.cyfoethnaturiolcymru.gov.uk)

## Scope of NRW Comments

Our comments above only relate specifically to matters that are included on our checklist “Natural Resources Wales and Planning Consultations” (March 2015) which is published on our website: (<https://naturalresources.wales/planning-and-development/planning-anddevelopment/?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.

### Ward Cllr

The reason why I would like it to be brought before committee is that a member of my community who lives close to the proposed development would be overlooked by the development and it would breach her privacy.

### **Representations**

Following the display of a site notice, 1 letter of objection has been received which raises the following:

- Having an overbearing impact upon neighbouring dwellings
- Inappropriate design
- Impact upon visual setting of Llanigon
- Dangerous junction
- Highway network
- Flooding

### **Planning History**

P/2017/0211 - Outline - Application for a new detached dwelling and new access. Conditional Consent – 20/04/17

B/01/0229

### **Principal Planning Constraints**

C2 Flood Zone  
Historic Landscapes Register Outstanding

### **Principal Planning Policies**

#### National planning policy

Planning Policy Wales (Edition 9, November 2016)

Technical Advice Note (TAN) 5 – Nature Conservation and Planning (2009)

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

Technical Advice Note (TAN) 15 - Development and Flood Risk (2004)

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

Technical Advice Note (TAN) 23 – Economic Development (2014)

#### Local planning policies

Powys Unitary Development Plan (2010)

SP5 – Housing Developments

SP14 - Development In Flood Risk Areas  
GP1 – Development Control  
GP3 – Design and Energy Conservation  
GP4 – Highway and Parking Requirements  
ENV2 – Safeguarding the Landscape  
ENV3 – Safeguarding Biodiversity and Natural Habitats  
ENV7 – Protected Species  
HP4 - Settlement Development Boundaries and Capacities  
HP5 – Residential Developments  
DC10 – Mains Sewerage Treatment

Residential Design Guide (October 2004)

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

## **Officer Appraisal**

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

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

### Principle of Development

The principle of development in this location has already been considered and approved under the outline planning application P/2017/0211 that was granted planning permission for a new detached dwelling and new access on the 20/04/17. The main consideration in relation to a dwelling in this location under policy HP5 was whether the proposal is within a settlement development boundary and whether the proposal can be sensitively located and being capable of being integrated into the settlement without unacceptably affecting the amenity and character of the existing settlement. It was considered that the proposed development has been suitably sited within the settlement development boundary of Llanigon as defined by the Powys Unitary Development Plan (2010) and is seen as part of the residential setting of Llanigon.

It is therefore considered that the principle of development complies with policy HP5 of the Powys UDP (2010). This application seeks to secure consent for details such as access, appearance, landscaping, layout and scale.

### Design

With respect to design, appearance and location specific reference is made to UDP policies GP1 and HP5. The respective policies indicate that development proposals will only be permitted where the design, scale, mass and materials used complement and wherever possible enhance the character and appearance of the surrounding area.

Residential dwellings in Llanigon are constructed mainly from stone and brick under tiled roofs. The walls will be constructed using red brick and larch cladding under a tiled roof. The materials proposed are seen to complement that of the existing area and provide a rural context to the development.

When considering the scale of the proposed development careful consideration must be given to the developments surroundings. The approximate height of the proposed development is 7.2 metres. The proposed development is located to the north of a detached property and a semi detached property that are two storeys in height. The surrounding residential dwellings located within Llanigon and the surrounding area, do have a ridge height in keeping with the ridge height of the proposed development. The proposed development will measure approximately 17.3 metres in length by 10.3 metres in width. The height of the dwelling to ridge height is approximately 7.2 metres and to eaves is approximately 5 metres. The scale of the proposed development is considered to be in-keeping with the character and appearance of the surrounding area and is not considered to dominate the landscape.

In light of the above it is therefore considered that the proposed development fundamentally complies with relevant planning policy with regards to design.

#### Highway Safety

Policy GP4 of the Powys UDP requires a safe access, parking and visibility splays which are a fundamental requirement of any development.

Powys County Council's Highway Authority has been consulted on the proposed development and initially stated that the application failed to incorporate the required access improvements that were recommended during the outline application. The Highway Officer therefore requested additional information which accurately detailed the visibility splays to the north and the south of the new access.

Following the submission of an amended access drawing, the Highway Officer was re-consulted. The Highway Officer stated that the access and visibility improvements submitted on drawing HLND011 were acceptable and should planning permission be granted appropriately worded conditions should be attached. The conditions will ensure that an access and visibility splays are created to an appropriate standard.

In light of the above and the recommended conditions put forward by the Highway Officer it is considered that the proposed development fundamentally complies with policy GP4 of the Powys UDP.

#### Amenities enjoyed by occupiers of neighbouring properties

In considering the amenities enjoyed by occupiers of neighbouring properties consideration has been given to the Powys Residential Design Guide (October 2004).

Consideration must be given to the amenities enjoyed by the occupiers of neighbouring dwellings. To the north and west of the application site are agricultural fields, to the east runs the C0074, to the south and south east are residential properties. The residential property to the south east is located approximately 25 metres away, the height of the proposed dwelling is 7.2 metres in height. This would allow for a approximate 6.2 metre clearance when

considering the 25 degree rule, it is therefore considered that the proposed development would not have an unacceptable overbearing or overlooking impact upon the dwelling at 1 Ashtree Grove. Furthermore it is noted that the C0074 and two hedgerows separate the proposed development from the property known as Ashtree Grove. To the south of the application site is the dwelling known as Waters Edge located approximately 17 metres away. It is noted that the applicants are the owners of the property known as Waters Edge. However, consideration is still given to assess the impact of the proposed development. When using the 25 degree rule in this instance there remains a clearance of approximately 2.5 metres. Given the proposed landscaping and the 25 degree rule it is considered that the proposed development would not have an unacceptable overbearing or overlooking impact upon the existing dwelling known as Waters Edge.

In light of the above it is considered that the proposed development would not have an impact upon the amenities enjoyed by occupiers of neighbouring properties.

### Biodiversity

Policy ENV3 and ENV7 of the Powys Unitary Development Plan (2010) seek to ensure that protected species and their habitats are not impacted upon by development and seeks to improve habitats wherever possible. This is further emphasised within Technical Advice Note (TAN) 5.

Biodiversity and protected species were considered under the outline planning application (P/2017/0211) and appropriately worded conditions as recommended by the ecologist were attached to that granting of consent. The conditions related to a tree and hedgerow protection plan to be submitted prior to the commencement of development as well as a species list for the landscape planting also prior to commencement. Informatives were attached to the P/2017/0211 consent in relation to birds and bats, in order to ensure that they are well received shall be attached should this application be granted consent.

### Foul Drainage

The method of foul drainage was established under the outline planning application (P/2017/0211). The method of foul drainage will be a connection to the mains sewer.

### Flooding

Policy SP14 of the Powys UDP refers to development in flood risk areas. Policy SP14 states that highly vulnerable development and emergency services will not be permitted in C2 flood zones.

Concerns have been raised about flooding within the area of Llanigon. Having reviewed the Development Advice Maps (DAM's) and consulted NRW it is considered that the proposed development site is located outside of the C2 flood zone and therefore fundamentally complies with policy SP14 of the Powys UDP and TAN 15.

### Other Legislative Considerations

Crime and Disorder Act 1998



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

#### Equality Act 2010

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

Having due regard to advancing equality involves:

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

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

#### Planning (Wales) Act 2015 (Welsh language)

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

#### Wellbeing of Future Generations (Wales) Act 2015

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

## Recommendation

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

## Conditions

1. The development hereby granted approval of reserved matters shall be begun before the expiration of two years from the date of this approval, or before the expiration of five years from the date of the outline planning permission whichever is the longer.
2. The development shall be carried out strictly in accordance with the plans stamped as approved on XX/XX/XX (drawing no's: HLND 004, HLND003, HLND005, HLND 002, HLND, HLND010 & HLND011).
3. No other development shall commence until provision is 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 0.35 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.
4. No other development shall commence until the access has been constructed so that there is a clear visibility splay from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 25 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
5. Upon formation of the visibility splays as detailed above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.
6. Before any other development is commenced 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 5.5 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.
7. Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 3 cars 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.
8. Prior to the occupation of the dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 5.5 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.
9. Any entrance gates erected shall be set back at least 5.5 metres distant from the edge of the adjoining carriageway and 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.

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

### **Reasons**

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
3. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
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8. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
9. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
10. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.

### **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.

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

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0345 1300 228 or email

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