

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: P/2017/1125

Grid Ref: 316431.5
295155.7

Community Council: Abermule

Valid Date: 02/10/2017
Officer: Rachel Mulholland

Applicant: Mr A Evans, 57 Dol Hir, Abermule, Powys, SY18 6JS.

Location: Land adjacent to Cae Bryn Derwen, Brynderwen, Abermule, SY15 6JX.

Proposal: Full: Erection of new dwelling and detached garage, creation of parking area and all associated works.

Application Type: Application for Full Planning Permission.

The reason for Committee determination

The application is to be determined by planning committee as it represents a departure from the development plan and is recommended for approval.

Site Location and Description

The application site lies 76 metres to the northeast of the settlement development boundary of Abermule with residential development between the settlement boundary and the application site. The site is to be accessed via an existing access lane from the B4386 county highway to the southeast. The site has neighbouring residential dwellings to the north, west, northwest and southwest.

This application represents a departure from the current Unitary Development Plan and seeks full consent for the erection of one dwelling, a detached garage, creation of a parking area and all associated works. The dwelling is proposed to be single storey in construction finished with brickwork and render to the external walls with slate roofing and uPVC window and door units. The dwelling is located in the centre of the site with the access and driveway to the east and the garage to the south.

The dwelling measures, at its widest points, 15.5 metres in width by 13 metres in length with a height of approximately 5.8 metres.

The proposal also includes the construction of a detached double garage to the south of the dwelling to measure approximately 7 metres by 7 metres with a height of approximately 4.7 metres. The garage is to be finished with brickwork to the walls and a slate roof.

Consultee Response

Abermule and Llandyssil Community Council

Correspondence received 8th October 2017

The Council supported the application to the application however it should be noted that mains water is in the vicinity of the development.

PCC Highways

Correspondence received 24th October 2017

The County Council as Highway Authority for the County Class II Highway, B4386
Wishes the following recommendations/Observations be applied

Recommendations/Observations

Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom, up to a maximum of 3, excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

Wales and West Utilities

Correspondence received 10th October 2017

Wales & West Utilities have been made aware of a planning application on 09.10.2017, advising us of the proposals for:

Land adj, Brynderwen, Abermule, Montgomery, Powys, SY15 6JX

We enclose an extract from our mains records of the area covered by your proposals together with a comprehensive list of General Conditions for your guidance. This plan shows only those pipes owned by Wales & West Utilities in its role as a Licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned pipes may be present in this area. Information with regard to such pipes should be obtained from the owners. The information shown on this plan is given without obligation, or warranty and the accuracy thereof cannot be guaranteed. Service pipes, valves, syphons, stub connections, etc., are not shown but their presence should be anticipated. No liability of any kind whatsoever is accepted by Wales & West Utilities, its agents or servants for any error or omission.

Wales & West Utilities has pipes in the area. Our apparatus may be affected and at risk during construction works. Should the planning application be approved then we require the promoter of these works to contact us directly to discuss our requirements in detail before any works commence on site. Should diversion works be required these will be fully chargeable.

You must not build over any of our plant or enclose our apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

Severn Trent Water

Correspondence received 6th October 2017

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.

There is a pumping station close to the site and any new development must not restrict our access to the Sewage Pumping Station (SPS). We will require free access to the SPS at all times in order to complete any programmed routine maintenance tasks and also for any emergency reactive visits in case of failure. Please note that due to the close proximity of the proposed new development the occupant may experience noise and/or smell pollution. In order to minimise disruption to any future occupant(s), we would advise that all habitable buildings are constructed a minimum of 15 metres from the curtilage of the SPS compound.

PCC – Environmental Health

Correspondence received 6th October

Foul drainage

Environmental Protection has no objection to the proposal to connect to the mains sewer.

PCC Ecologist

Correspondence received 14th November 2017

Thank you for consulting me with regards to planning application P/2017/1125 which concerns the full planning application for erection of new dwelling and detached garage, creation of parking area and all associated works on Land adjacent to Cae Bryn Derwen, Brynderwen, Abermule.

I have reviewed the proposed plans as well as local records of protected and priority species and designated sites within 500m of the proposed development. The data search identified 122 records of protected and priority species within 500m of the proposed development - no records were for the site itself.

There are two statutory designated sites within 500m of the proposed development:

- Montgomery Canal –SAC
- Montgomery Canal – SSSI

In considering the location and nature of the proposed development in relation to the Montgomery Canal SAC it is considered that there is no likelihood of direct or indirect impacts between the site of the proposed development and the Montgomery Canal SAC. This assessment has taken into account the fact that there are residential properties and private road between the proposed development and SAC. Given the lack of connection between the proposed development and the nature of the development it is considered that there is no potential for a Likely Significant Effect to the SAC or its associated features and that a HRA would not be required.

There is a non-statutory designated site within 500m of the proposed development;

- Local Wildlife Trust Reserve – Dolforwyn Woods – Abermule

Having reviewed the location and nature of the proposed development in relation to the Local Wildlife Trust Reserve (LWTR) it is considered that the proposed development would not result in a negative impact to the LWTR or its associated features.

The site of the proposed development appears to be an area of poor semi-improved grassland which is considered a habitat of low ecological value.

Tree Protection Plan

However, a notes that there are a number of trees to the southern boundary of the proposed developments.

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.

Given the proximity of development and development works to the trees on the southern boundary it is considered prudent to require information from the applicant as to how these features biodiversity importance for wildlife will be protected during the construction period of works.

Reviewing the submitted plans it appears that no sections of the hedgerow will be removed to accommodate the proposed developments and form new access.

Wildlife Sensitive Lighting Plan

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.

Landscape Planting Scheme

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. It is therefore recommended that a landscape planting scheme is secured through an appropriately worded condition.

Therefore should you be minded to approve the application I recommend inclusion of the following conditions:

Prior to commencement of development a Tree 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.

Clwyd-Powys Archaeological Trust

Correspondence received 10th October 2017

Thank you for the consultation paperwork relating to the above proposals.

Information retained within the Regional Historic Environment Record indicates that this application falls in an area of high archaeological potential. The proposed development site lies immediately east of a former development subject to a watching brief and very limited excavation back in 2010 (see copy of report attached) The excavation proved the presence of a large sub-circular prehistoric enclosure of Bronze Age or earlier date with a possible entrance on the west side. Only the western side of this enclosure was located and it is believed that the interior and outer defences extend west into the development area of the current application. The archaeology is deeply buried but would be affected by the foundations and service trenches of the new house.

The proposed development will disturb any such remains surviving here, but from present knowledge it is impossible to estimate how damaging this might be, and thus to frame an appropriate archaeological response. The planning authority appears to have insufficient information about this archaeological resource, or the applicant's intended treatment of it, to make a balanced decision. As archaeology is a material consideration here I would advise that this application is not determined until this resource has been properly evaluated.

Welsh Government Planning Policy Wales (Edition 9, Nov 2016), TAN 24: the Historic Environment (May 2017) and Powys UDP Policies ENV 17 and 18 suggest that planning authorities should require applicants to supply a suitable archaeological assessment in support of an application where a potential impact to archaeological remains is identified.

The developer will need to engage an archaeological contractor to complete this work in accordance with a brief written by this office on request. In response the archaeological contractor will need to supply a written scheme of investigation along with their cost estimate. The written scheme of investigation will need to be approved by me before work can commence on site.

I would advise that in order to allow sufficient time for an evaluation to be carried out, and the discussion of a subsequent mitigation strategy, the determination of the current application is delayed so that this information can be gathered and presented in support of the application.

I have attached advisory information on archaeological contractors that the developer may wish to consider engaging to complete evaluation work as well as information on the evaluation process and a generic evaluation brief.

Correspondence received 22nd November 2017

I can confirm that the report was received and approved yesterday. No significant archaeological remains were found in the trenches and we have no requirements for additional archaeological intervention following the evaluation.

Cadw

Correspondence received 26th October 2017

Thank you for your letter of 4 October 2017 inviting our comments on the above planning application.

Advice

Having carefully considered the information provided with this planning application, we have no objections to the impact of the proposed development on the scheduled monument MG054 Bryn-Derwen Mound and Bailey Castle. Our assessment of the application is given below.

Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site. We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority.

National Policy

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), Technical Advice Notes and circular guidance.

PPW (Chapter 6 – The Historic Environment) explains that the conservation of archaeological remains is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. Technical Advice Note 24: The Historic Environment elaborates by explaining that there is a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of remains.

PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, and that the effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application.

Assessment

The application area is located some 45m west of scheduled monument MG054 Bryn-Derwen Mound and Bailey Castle. The monument consists of the remains of a medieval

castle, which was probably located in order to control the route along the Severn Valley and the crossing of the river on the line of the present bridge. As such the significant views from the castle when it was constructed would have been to the north and south.

The current application is for the construction of a bungalow and garage and these will be partly screened in from views from the scheduled monument by an existing bungalow and the vegetation in its' garden. The proposed bungalow will not be located in one of the identified significant views from the castle and will not add a new building form to the surrounding area. However, it will be located in close proximity to the scheduled monument and will increase the level of modern development in its' immediate vicinity. Consequently it is our opinion that the proposed development will cause very slight damage to the setting of scheduled monument MG054.

Representations

Following display of a site notice on 11/10/2017 and publicity in the local press on 13/10/2017 four letters of objection have been received which can be summarised as follows:

- The development is outside of the settlement boundary for Abermule
- Concerns over the justification for the application on the grounds of housing need
- Impact on the amenities of nearby properties
- Drainage concerns
- Highway safety concerns
- Unfairness of the planning system

Principal Planning Policies

National Policies

Planning Policy Wales (9th Edition, 2016)

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

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

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

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

Technical Advice Note (TAN) 20 – Planning and the Welsh Language (2013)

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

Technical Advice Note (TAN) 24 - The Historic Environment (2017)

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

Welsh Office Circular 13/97 - Planning Obligations

Local Policies

Powys Unitary Development Plan 2010

SP5 – Housing Developments

SP6 – Development and Transport

GP1 – Development Control
GP2 – Planning Obligations
GP3 – Design and Energy Conservation
GP4 – Highway and Parking Requirements
ENV2 – Safeguarding the Landscape
ENV3 – Safeguarding Biodiversity and Natural Habitats
ENV7 – Protected Species
ENV17 – Ancient Monuments and Archaeological Sites
ENV18 – Development Proposals Affecting Archaeological Sites
HP3 – Housing Land Availability
HP4 – Settlement Development Boundaries and Capacities
HP5 – Residential Development
DC3 – External Lighting
DC8 – Public Water Supply
DC12 – Mains Sewage Treatment
DC13 – Surface Water Drainage
TR2 – Tourist Attractions and Development Areas

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 lies partly outside of the settlement development boundary identified in 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 a departure.

Housing Land Supply

The departure is being justified by the applicant on the basis that Powys County Council does not have a 5 year housing land supply.

Paragraph 9.2.3 of Planning Policy Wales states that '*Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply*

of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.'

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

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

Whilst TAN 1 confirms that the need to increase housing land supply should be given considerable weight, it is emphasised that this is only where the development would otherwise comply with development plan and national planning policies. Therefore, all material planning considerations are required to be taken into account as are all relevant national and local planning policies and balanced with the undersupply of housing land currently available in Powys.

Sustainability

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 development site is located approximately 76 metres to the northeast of the settlement boundary of Abermule with residential development between the settlement boundary and the application site. Abermule is identified in the UDP as a key settlement and is served by a range of community services and facilities including a primary school, village shop, community centre and two public houses. It is also accessible by public transport with regular bus services to Llanidloes, Montgomery, Newtown, Rhayader, Shrewsbury and Welshpool. The application site is located approximately 4 miles from Newtown and 9 miles from Welshpool.

Concerns have been raised by local objectors over the sustainability of the area. Abermule is identified as a key settlement in the Powys UDP which states that the settlement has the capacity to accommodate additional development. The UDP states that on allocated sites it is estimated that 129 dwellings would be an appropriate level of growth within the plan period but that further opportunities for infill development may exist.

In light of the range of services located within walking distance of the development site, officers consider that there is an argument to support the principle of residential development at this location given its siting less than 80 metres from the existing settlement boundary. Therefore, the proposed site is considered to be a sustainable location for residential development of one dwelling.

Scale, Design and Appearance

Policy GP3 of the Powys Unitary Development Plan seeks to ensure that development proposals are of an appropriate design, scale, layout and of materials that shall complement or where possible enhance the character of the surrounding area.

The proposed dwelling is to be a 3 bedroom open market bungalow to be finished with brickwork and render to the external walls with slate roofing and uPVC window and door units. The dwelling measures, at its widest points, 15.5 metres in width by 13 metres in length with a height of approximately 5.8 metres.

The proposal also includes the construction of a detached double garage to the south of the dwelling to measure approximately 7 metres by 7 metres with a height of approximately 4.7 metres. The garage is to be finished with brickwork to the walls and a slate roof.

Officers consider that the proposed dwelling and associated garage is of an appropriate design, materials and scale to complement the character and appearance of the neighbouring dwellings and of the surrounding area. It is considered that the proposed dwellings fundamentally comply with policies GP1 and GP3 of the Powys Unitary Development Plan 2010

Amenity

Policy GP1 of the Powys Unitary Development Plan states that the amenities enjoyed by the occupants of nearby neighbouring properties should not be unacceptably affected by development proposals. In considering the amenities enjoyed by the occupiers of neighbouring properties consideration has also been given to the Powys Residential Design Guide (October 2004).

The proposed dwelling is not considered to offer any additional impact upon loss of daylight or privacy to neighbouring dwellings due to the nature of the development, being single storey in construction, the distance between and the provision of boundary screening. The dwelling is located approximately 16 metres from the neighbouring dwelling to the southwest and 24 metres from the neighbouring dwelling to the northwest. Due to the distances and positioning of the dwellings it is considered that the proposed development will not affect the amenities of the neighbouring properties.

Concerns have been raised by local objectors over the impact of the development on nearby properties including through loss of daylight and loss of privacy. Guidance contained in the Powys Residential Design Guide has been used to assess this proposal and any potential impacts. This guidance, in relation to daylight and sunlight, states:

'In order to avoid unnecessary overshadowing, 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 2m.'

With a distance of 16 metres between the proposed dwelling and the nearest neighbouring property, using the 25 degree rule, the maximum height of the proposed dwelling at this distance is 9.46 metres without causing an unacceptable impact in this respect. The

proposed dwelling has a height of 5.8 metres and, as such, it is considered that the dwelling will not result in an unacceptable impact on the neighbouring properties.

The Residential Design Guide states in relation to privacy:

'The acceptable distance between front elevations should normally be determined by the character of road widths in the area.'

Unless it can be demonstrated that privacy can be maintained through design, there should normally be a minimum separation of 20m between directly facing habitable room windows on rear elevations.

The minimum direct distance between habitable rooms on the main rear elevation (not subsidiary extensions) and the rear boundary, or flank wall of adjoining development, should normally be 10m or more.'

The site plan demonstrates that there is a distance of 16 metres between the proposed side (flank) elevation of the proposed dwelling and the rear elevation of the existing dwelling to the southwest. As per the guidance above, in this situation the minimum distance between these properties should be 10 metres. It is considered, therefore, that the proposed development fundamentally complies with relevant planning policy in this regard.

The development is, therefore, considered to be appropriate and complies with policies GP1 and GP3 of the Powys Unitary Development Plan 2010.

Landscape and Visual Impact

Policy ENV2 of the Powys Unitary Development Plan seeks to ensure that proposed development will not have an unacceptable adverse impact upon the Powys Landscape. Development proposals should be design in a way to be sensitive to the character and appearance of the surrounding area and landscape.

This proposed site is considered to be well connected to the settlement of Abermule being adjacent to existing dwellings and less than 80 metres from the settlement development boundary. It is considered that the proposed site is well integrated with the existing village and would not have an unacceptable significant adverse visual impact upon the character or appearance of the surrounding area.

In terms of landscaping the submission proposes additional planting at the plot boundary and within the site. Whilst the site would be visible from public vantage points including the public highway and the proposal would result in a visual change in comparison to the current open space, taking into account the location between existing dwellings and structures within the area, that landscaping measures would reduce the visual impact and that the proposed scale of one single storey dwelling, it is considered that the design reflects the overall character and appearance of the settlement and surrounding area.

In light of the above, it is considered that the proposed development complies with policy ENV2 of the Powys Unitary Development Plan 2010.

Highways Safety and Movement

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking. Access to the site would be gained off the B4386 via an existing access with a newly created entrance, parking and turning area within the site.

Concerns have been raised by local objectors regarding highway safety. The Highway Authority have been consulted on this application and have raised no objections to the development subject to the suggested condition listed above regarding parking provision.

In light of the Highway Officer's comments, and subject to the suggested condition, it is considered that the proposed dwelling fundamentally complies with Policy GP4 of the Powys Unitary Development Plan 2010.

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).

With respect to biodiversity, specific reference is made to UDP policies ENV3, ENV4 and ENV5 which seek to maintain biodiversity and safeguard protected important sites; given the proximity of the site to the Montgomery Canal SSSI and SAC the Powys Ecologist has been consulted with regard to this application.

The Ecologist reviewed the proposed plans as well as local records of protected and priority species and designated sites within 500m of the proposed development. From the data search they identified 122 records of protected and priority species within 500m of the proposed development, although no records were for the site itself.

It is noted that the proposed development is within 500m of the Montgomery Canal SSSI and SAC. After consideration of the proposals the Ecologist deemed it unlikely that the proposed development would have any negative impact on the above sites or their associated features.

No objection has been raised to the scheme subject to the inclusion of conditions securing the submission of a Tree Protection Plan, a detailed lighting design scheme and a detailed landscaping scheme.

It is considered that, in light of the Ecologist's comments and subject to the inclusion of the suggested conditions, the proposed development fundamentally complies with policies ENV7 of the Powys Unitary Development Plan (2010) and Technical Advice Note (TAN) 5 Nature Conservation and Planning (2009).

Environmental Health

With regard to foul drainage it is proposed for the development site to connect to the public foul sewerage system. Given the location of the site it is considered that this is feasible. The Council's Environmental Health Officer has been consulted on this application and has no

objections to this. Severn Trent Water has also been consulted and has confirmed that they have no objections to the application subject to the inclusion of a condition requiring detailed drainage plans for the disposal of foul and surface water flows.

Concerns have been raised by local objectors regarding the proposed drainage for the site and the capacity of the area pumping station; however, neither the Environmental Health Officer nor Severn Trent Water has raised any concerns or objections over these issues.

In light of the above, and subject to the suggested condition relating to the provision of drainage plans, it is considered that the proposed development fundamentally complies with the relevant planning policy in this regard.

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. Technical Advice Note 20: Planning and the Welsh Language provides further advice on how the planning system considers the implications of the Welsh Language. Within the Powys UDP policy GP5 identifies settlements where the Welsh Language is important to the social, cultural and community fabric of the area. Whilst Abermule has not been identified as one of these areas it is considered that the Welsh Language is a material consideration across the County.

In the 2011 census the Dolforwyn Ward reported that 13.9% of the population spoke Welsh. This is a slight decrease from the 2001 census which stated that 14.2% of the population of Dolforwyn spoke Welsh. The development of one dwelling in this location is considered not to have a detrimental impact on the cultural or linguistic vitality of the area.

Ancient Monuments and Archaeological Sites

In considering the impact of the proposed development on nearby ancient monuments and/or archaeological sites reference is made to UDP policies ENV 17 and ENV 18 which state that development will not be permitted which would unacceptably affect the site or setting of a scheduled ancient monument or a site of archaeological importance. The application site is approximately 45 metres to the east of Bryn-Derwen Mound and Bailey Castle. As such, the Clwyd Powys Archaeological Trust (CPAT) and Cadw have been consulted.

Cadw have addressed the impact of the proposed development on the setting of the nearby scheduled monument. Cadw considers that the dwelling will not be located in one of the identified significant views from the castle, it will not add a new building form to the surrounding area and it will be partly screened in from views from the scheduled monument by an existing bungalow and vegetation. Cadw do consider that the dwelling will be located in close proximity to the scheduled monument, will increase the level of modern development in its' immediate vicinity and will cause very slight damage to the setting of the monument; however, they have stated that having considered the application they have no objections to the impact of the proposed development.

CPAT considered that due to the location of the application site in an area of high archaeological potential and the possibility of the development disturbing archaeological remains linked with a known prehistoric enclosure in the area an archaeological survey

should be undertaken prior to the determination of the application. An archaeological field evaluation was carried out at the site and the associated report was submitted to accompany the application and reviewed by CPAT. Following review of this report CPAT have stated that no significant archaeological remains were found and they have no requirements for additional archaeological intervention following this evaluation.

In light of the above it is considered that the proposed development complies with the relevant planning policy in this regard.

Public Representations

Letters of objection have been received which raised a number of concerns over the development including the matters of highways, drainage and amenity which have been addressed in the relevant sections above.

Concerns have been raised regarding the justification for the application on the grounds of housing need and the unfairness of the planning system due to previous applicants in the area being responsible for undertaking highway improvements at their own cost which this development would benefit from. The comments in relation to the cost of previous works are acknowledged; however, it is noted that this is not a planning consideration and, as such, cannot be taken into consideration on this application.

With regard to the concerns over sustainability and location of the site it is stated within the Powys UDP that Abermule has the capacity to accommodate additional development. It is also noted that the housing land supply is for Powys as a whole rather than individual settlements. It is also considered, after assessment of the proposals, that the application site is capable of accommodating the proposed dwelling.

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 the proposal is a departure from the development plan, the Council's current lack of housing land supply carries considerable 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. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans stamped as approved on XXXXXX (drawing no's: S085 1.3.03 Rev C, S085.1.3.05 Rev C and S085.1.3.06 Rev A)
3. Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom, up to a maximum of 3, excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.
4. Prior to the commencement of development detailed drainage plans for the disposal of foul and surface water flows shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as agreed and maintained thereafter.
5. Prior to commencement of development a Tree Protection Plan in accordance with BS:5837:2012 shall be submitted to and agreed in writing by the Local Planning Authority and implemented as approved and maintained thereafter.
6. Prior to the first installation of any external lighting a detailed lighting design scheme to take into account any impacts on nocturnal wildlife shall be submitted to and agreed in

writing by the Local Planning Authority and shall be implemented as approved and maintained thereafter.

7. 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 and implementation scheme. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition.

Reasons

1. Required to be imposed by section 91 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. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
4. To ensure that the proposed drainage systems for the site follow best practice sustainable drainage designs and are fully compliant with regulations and are of robust design.
5. 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.
6. 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.
7. 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.

Informative Notes

A Building regulations application will be required for this development, please contact Building Regulations on 01874 612290.

Birds - Wildlife and Countryside Act 1981 (as amended)

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

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

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

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

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

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

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

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.

Case Officer: Rachel Mulholland- Planning Officer
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