

- 2 woodland ground flora species (listed in Schedule 2 to the Regulations) were identified –Herb-robert and Male fern
- The hedgerow is not adjacent to a public footpath
- The hedgerow connects with 2 other hedgerows and a woodland Score – 4 points
- The hedgerow is not associated with a bank or wall which supports the hedgerow along at least one half of its length
- The hedgerow is not associated with a ditch along at least one half of its length
Gaps in the hedgerow do not add up to more than 10% of its length
- No standard trees are present within the hedgerow
- There is a parallel hedgerow within 15m of the hedgerow concerned.

Having taken these results into account, the hedgerow meets the criteria of ‘Important’ as defined by the regulations.

I note that the proposed removal of the hedgerow relates to works to widen the existing highway to allow works to maintain its structural integrity.

Regulation 5 part 5 section b states that

(5) A local planning authority—

(b) shall give such a notice, within the period specified in paragraph (6), in respect of an “important” hedgerow unless satisfied, having regard in particular to the reasons given for its proposed removal in the hedgerow removal notice, that there are circumstances which justify the hedgerow’s removal.

Therefore consideration should be given to the reason for the proposed hedgerow removal and whether this constitutes sufficient merit to issue a Hedgerow Removal Notice for an Important Hedgerow.

It is important to note that hedgerows are 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. Hedgerows and linear tree features are also included in the Powys LBAP 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’.

If a decision is made to issue Hedgerow Removal Notice then I would recommend that the applicant considers options to compensate for the loss of hedgerow - Powys County Council have a duty under the Environment (Wales) Act 2016 to maintain biodiversity. If possible translocation of the hedgerow would be preferable, but if this is not possible then a new native species rich hedgerow reflecting the species present in the current hedgerow should be considered.

If a hedgerow removal notice is issued the applicant should be reminded that under the 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). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales.

Natural Resources Wales

Thank you for consulting Natural Resources Wales on the above application.

We have reviewed the planning application submitted to us, and from the information provided we do not consider that the proposed development affects a matter listed on our Checklist, *Natural Resources Wales and Planning Consultations* (March 2015): <https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/our-role-in-planning-and-development/our-role-in-planning-and-development/?lang=en>. We therefore do not have any comment to make on the proposed development.

Please note that our decision not to comment does 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.

We trust that the above comments are of assistance however, should you have any queries, please do not hesitate to contact me.

CPAT

Thank you for the consultation on this hedgerow removal notice application.

I can confirm that there are no archaeological/historical impacts according to the criteria of the Hedgerow Regulations 1997.

Planning History

None as per GIS.

Principal Planning Constraints

Class 3 Road C2172

Montgomeryshire Common

Principal Planning Policies

National Policies

Planning Policy Wales (9th Edition, November 2016)

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

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

Hedgerow Regulations Act 1997

Local Policies

GP1 – Development Control

GP3 – Energy and Conservation

GP4 - Highway and Parking Requirements

ENV1 – Agricultural Land

ENV2 – Safeguarding the Landscape

ENV3 – Safeguarding Biodiversity and Natural Habitats

ENV7 – Protected Species

SP3 – Natural, Historic and Built Heritage

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

Principle of Development

In considering the proposed hedgerow removal, regard is given to The Hedgerow Regulations Act 1997. In compliance with regulation 5, prior to the removal of any hedgerow or stretch of hedgerow, the owner of must first notify the Local Planning Authority of their intention to remove the hedgerow. In the event that the hedgerow is considered 'important' as per the criteria of Regulation 4, the Local Planning Authority will serve a retention notice prohibiting the removal of the hedgerow.

In determining whether a hedgerow is considered 'important' for the purposes of the regulations, regard must be given to the following:

- Archaeology and History
- Wildlife and Landscape

With regards to the above, the following observations and comments are made.

In terms of archaeology and history, Clwyd Powys Archaeological Trust has been consulted. The response received by Planning Services indicates that there are no archaeological implications under the Hedgerows Regulations Act 1997 for the removal of this section of hedgerow.

With respect to wildlife and landscape, PCC Ecologist has been consulted. The PCC Ecologist confirmed that the hedgerow meets the criteria of 'Important' as defined by the regulations.

In this instance it is considered that the highways maintenance and structural integrity outweighs the importance of the hedgerow. This is on the basis that translocating the hedgerow will compensate for any loss of biodiversity.

RECOMMENDATION

It is recommended that a hedgerow retention notice is not served.

Informative Notes

Biodiversity

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- 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.

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