

Reasons for Deferral

Whilst the Highway Authority do not object to the principle of development, the access road from the County Highway to the development is substandard in terms of carriageway gradient. The application does not include any detail of proposed works to be carried out to improve the gradient to 1 in 15 for the first 10 metres.

Having reviewed speed data taken from near the access it became evident that the proposed visibility splays of 43 and 59 metres are not sufficient for the traffic speeds. The 85th percentile speed within the 30mph zone is 39.4mph therefore the visibility in the westerly direction is required to be increased to 59 metres and 129 metres in the easterly direction.

If a revised plan were to be submitted to show the improved access and visibility splays as outlined above the Highways Authority would then be in a position to provide a final response.

Consultation received 03/01/2018

The County Council as Highway Authority for the County Class II Highway, B4391

Wish the following recommendations/Observations be applied
Recommendations/Observations

In accordance with revised plan ref. RPP/GD-JO837-03 the below conditions should be included if this application is approved.

HC1 Prior to the occupation of the dwelling any entrance gates shall be set back at least 6 metres distant from the edge of the adjoining carriageway (B4391) 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.

HC2 Prior to the commencement of the development the gradient of the access onto the B4391 shall be constructed so as not to exceed 1 in 15 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

HC3 Prior to the commencement of the development the centre line of the first 10 metres of the access road onto the B4391 measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

HC4 Prior to the commencement of the development the access onto the B4391 shall be constructed so that there is clear visibility 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 129 metres in an easterly direction and 59 metres in a westerly 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 areas 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.

HC12 The width of the access carriageway onto the B4391, constructed as above, shall be not less than 5.5 metres for a minimum distance of 10 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

HC8 Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom to a maximum of 3 excluding any garage space provided. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

HC32 No storm water drainage from the site shall be allowed to discharge onto the county highway.

PCC Building Control

Building Regulations application required.

Wales and West Utilities

Wales & West Utilities acknowledge receipt of your notice received on 08.11.2017, advising us of the proposals for:

Glanaber, Penybontfawr, Oswestry, Shropshire, SY10 0PD

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.

Severn Trent Water

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows:

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

To help us provide an efficient response please could you send all responses to welshplanning@severntrent.co.uk rather than to named individuals, including the STW ref within the email/subject.

PCC Environmental Health

As the proposed dwellings will be connected to the mains foul drainage, I have no objection to the application.

PCC Ecologist

Ecological Topic		Observations
EIA Screening Opinion needed?	No	The site area is understood to be 0.20 hectares and includes only 2 dwellings. Therefore, it is not considered to meet or exceed the thresholds of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 for the screening of dwelling house developments for EIA since it does not exceed five hectares; include more than 150 dwellings; or include more than one hectare of urban development that is not a dwelling house development.
Ecological Information included with application?	No	<p>No ecological information has been submitted with the application. These observations are based on an interpretation of available aerial and street imagery, the submitted plans and historical biodiversity records provided by the Powys and Brecon Beacons National Park Biodiversity Information Service.</p> <p>The proposals involve the construction of 2 new dwellings on the outskirts of a small rural village. The proposed site is located in the north-east corner of an improved agricultural field which is bordered to the north by an existing residential property, and to the east by a private track which would provide access to the proposed development. The field boundaries to the east and west consist of hedgerow with mature trees, and the wider landscape is made up of agricultural fields bordered by trees and hedgerows.</p> <p>It's currently unclear whether a small row of mature trees along the northern section of the eastern field boundary would need to be removed to allow access into the proposed site.</p> <p>The proposal includes the provision of a new hedgerow along the southern and western boundaries of the development.</p>

Protected Species & Habitats¹	European Species	☒	<p>Within 1km of the site there are historic records of otters and various bat species.</p> <p>The eastern field boundary is made up of a row of mature trees and it is currently not clear whether tree removal is required to allow access into the proposed site at the northern end of this boundary. Bat tree-roosts are extremely difficult to identify, and it should be assumed that any mature native-species tree is an actual roost. It's highly recommended that all trees are retained, however should this not be possible measures are provided below which would reduce the risk of harming bats during clearance works. Given the potential for bat roosting features within surrounding mature trees and the importance of the hedgerow for commuting and foraging bats it is also recommended that measures are presented outlining how the developer intends to protect retained vegetation during the works.</p> <p>Should new lighting be required I recommend that a sensitive lighting plan is implemented in order to minimise the impact of new lighting on bats and any other nocturnal wildlife that may use surrounding vegetation for commuting or foraging.</p> <p>The proposed site does not present suitable foraging or resting habitat for otters.</p>
	UK Species	☒	<p>In addition to the species identified above, there are historic records of a variety of nesting birds within 1km of the site.</p> <p>The creation of the access to the east of the site would require the removal of some vegetation. I recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p> <p>The hedgerow that borders the site to the east could also provide suitable shelter for common reptile species. It is recommended that reasonable avoidance measures, including ecological supervision, are employed to prevent potential harm to reptiles during any vegetation clearance required to facilitate the proposed access and associated sightlines.</p>

¹ Species records within 1km (minimum).

	Section 7 Species & Habitats	<p>The applicant should be mindful that, in accordance with Powys County Council’s duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>It would seem likely that the creation of the access to the east of the site would require the removal of a section of hedgerow. Hedgerows are a Section 7 Priority Habitat. It is recommended that hedgerow removal is minimised and any section which need to be removed is translocated elsewhere within the development to allow earlier habitat establishment. The proposal includes the provision of a new hedgerow along the southern and western boundaries of the development which is welcomed and it is recommended that the new hedgerow is composed of locally occurring native species. Such measures should be agreed with the LPA prior to commencement of works.</p> <p>In addition to the species identified above, within 1km of the site there are historic records of hedgehog, and there could also be suitable habitat for other small mammals which are Section 7 priority species. It is therefore recommended that reasonable avoidance measures applied during site clearance to prevent impacts upon the local reptile population (discussed above) are extended to consider Hedgehogs and other small animals.</p> <p>As enhancement measures it is recommended that a variety of bird and bat boxes are fixed to the proposed dwellings or garage buildings.</p>
	LBAP Species & Habitats	<p>Please see comments above.</p>
Protected Sites	International Sites (within 1km)	None within the search area
	National Sites (within 1km)	None within the search area
	Local Sites (within 500m)	None within the search area
Invasive Non-Native Species	Unknown	No ecological information has been submitted with the application.

<p>Recommendations</p>	<p>Bat tree-roosts are extremely difficult to identify, and it should be assumed that any mature native-species tree is an actual roost.</p> <ul style="list-style-type: none"> • All British bat species are European Protected Species by virtue of their listing under Annex IV of EC Directive 92/43/EEC ('The Habitats Directive'). This Directive has been transposed into British Law under the <i>Conservation of Habitats and Species Regulations 2010</i>. <p>Regulation 9(5) of the 2010 Regulations requires all local planning authorities, in the exercise of all their functions, to have regard to the provisions of the Habitats Directive so far as they might be affected by those functions.</p> <p>Under Regulation 41 of the 2010 Regulations it is an offence to:</p> <p><i>(1) deliberately capture, injure or kill any wild animal of a European protected species;</i></p> <p><i>(2) deliberately disturb animals of any such species. Disturbance of animals includes in particular any disturbance which is likely—</i></p> <p><i>(a) to impair their ability—</i></p> <p><i>(i) to survive, to breed or reproduce, or to rear or nurture their young; or</i></p> <p><i>(ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or</i></p> <p><i>(b) to affect significantly the local distribution or abundance of the species to which they belong</i></p> <p><i>(3) deliberately take or destroy the eggs of such an animal; or</i></p> <p><i>(4) damage or destroy a breeding site or resting place of such an animal (including sites that are currently unoccupied).</i></p> <p>Furthermore that all British bats are protected under Schedule 5 of the Wildlife and Countryside Act (1981) (as amended). This legislation makes it an offence to intentionally kill, injure, take from the wild, possess or trade in any species of British bat, as well as intentionally or recklessly damage, destroy or obstruct access to any structure or place which bats use for shelter or protection. It is also an offence to disturb a bat/ bats whilst they are using such a place.</p> <p>It is therefore recommended that the applicant and contractors be informed of the possibility of encountering bats unexpectedly during tree works. If bats are encountered on site works should stop immediately and NRW should be contacted.</p>
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As a precaution it is recommended that the following sensitive felling procedure be implemented to minimise disturbance to bat populations.

- Where tree felling or lopping is planned, such work should only be carried out between September and February to avoid the bird-breeding season.
- If the tree trunk is smaller than 200mm diameter **and** if it has no dense ivy, suitable holes, loose bark, and no holes associated with the root system, work can be carried out on the tree between September and February (*i.e.* avoiding the bird breeding season).
- To avoid disturbing nursery roosts, work will **never** be carried out between June and August inclusive.
- If the tree does have any of the features listed above or has a trunk size greater than 200mm, it should be cut **only** in September and October when bats, including young are still mobile and able to fly-out.
- Any timber cut should be left lying on the ground for at least 24 hours to allow bats the opportunity to escape.
- Where the loss of mature trees is unavoidable, compensatory planting with appropriate locally native species, preferably of local provenance, should be undertaken.

I recommend that the extent of vegetation removal is kept to a minimum and where it needs to be removed for access this should be mitigated through translocation where possible to allow more immediate habitat establishment. Native, locally-occurring plant species should be included in all landscaping associated with this application and a species list for the landscaping should be provided for approval prior to commencement of development.

A tree/hedgerow protection plan in accordance with BS5837:2012 should be submitted for LPA approval prior to commencement of works and be implemented during the construction phase to safeguard retained vegetation.

I recommend that a sensitive lighting scheme is implemented to avoid adverse impacts on any nocturnal wildlife, such as bats, that may use surrounding vegetation.

Any vegetation clearance works required to accommodate the proposed development should be timed to avoid the bird nesting season (generally March to August inclusive).

	<p>If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p> <p>It is recommended that reasonable avoidance measures, including ecological supervision, are employed to prevent potential harm to reptiles and small animals during any vegetation clearance required to facilitate the proposed access and associated sightlines.</p> <p>Enhancement of the site, for example by installation of bat and bird boxes as part of the proposals, would be welcomed.</p>
<p>Further information required prior to determination of application</p>	<p>I am of the opinion that sufficient information has been included to determine the application from an ecological perspective, and in consideration of the information, I recommend conditions as detailed below.</p>
<p>Recommended Conditions</p>	<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>A lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>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.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development, a Species List for the Landscape Planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p>

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

Prior to commencement of development, a reptile and small animal Reasonable Avoidance Method Statement 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 ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

Prior to commencement of development, a Biodiversity Enhancement Plan 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 ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the Environment (Wales) Act 2016.

Informatives

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

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.

Reptiles - Wildlife & Countryside Act 1981 (as amended)

All UK native reptile species are protected by law. The Wildlife & Countryside Act 1981 (and later amendments) provides the legal framework for this protection.

The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury

All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.

Relevant UDP Policies	SP3 Natural, Historic and Built Heritage ENV 2: Safeguard the Landscape ENV 3: Safeguard Biodiversity and Natural Habitats ENV 6: Sites of Regional and Local Importance ENV 7: Protected Species
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Representations

Following the display of a site notice on the 10/11/2017 for the period of 21 days no public representations have been received at the time of writing this report.

Principal Planning Constraints

Historic Landscapes Register Outstanding

Principal Planning Policies

National Planning Policy

Planning Policy Wales (Edition 9, 2016)
 TAN 1 - Joint Housing Land Availability Studies (2015)
 TAN 2 - Planning and Affordable Housing (2006)
 TAN 5 - Nature Conservation and Planning (2009)
 TAN 6 - Planning for Sustainable Rural Communities (2010)
 TAN 12 - Design (2014)
 TAN15 – Development and Flood Risk (2014)
 TAN 18 - Transport (2007)
 TAN 23 – Economic Development (2014)

Local planning policies

Powys Unitary Development Plan (2010)

UDP SP2 – Strategic Settlement Hierarchy
 UDP SP5 - Housing Developments
 UDP GP1 - Development Control
 UDP GP3 - Design and Energy Conservation
 UDP GP4 - Highway and Parking Requirements
 UDP HP3 - Housing Land Availability
 UDP HP4 - Settlement Development Boundaries and Capacities
 UDP HP6 - Dwellings in the Open Countryside
 UDP HP8- Affordable Housing Adjoining Settlements with Development Boundaries
 UDP HP10- Affordability Criteria
 UDP DC10 - Mains Sewage Treatment
 UDP DC11 - Non-mains Sewage Treatment
 UDP DC13 - Surface Water Drainage
 UDP DC8 - Public Water Supply
 UDP DC9 - Protection of Water Resources
 UDP ENV 1 - Agricultural Land

UDP ENV 2 - Safeguarding the Landscape
UDP ENV 3 - Safeguarding Biodiversity & Natural Habitats
UDP ENV 7 - Protected Species
UDP TR2 – Tourist Attractions and Development

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 entirely outside but adjoins the settlement development limits for Pen-y-bont 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

Planning policy (TAN1 and UDP HP3) states that the Council needs to have a five year supply of land available for housing. The Powys Joint Housing Land Availability Study (2016) concludes that there is 2.2 years of housing 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

In considering a departure from the Powys Unitary Development plan policies consideration must be given to the location of the proposed development in terms of the sustainability of the development. Account should be given to the range of services and facilities available within close proximity to the site.

Planning Policy Wales (PPW) requires that development be sustainable and that adverse impacts do not outweigh the benefits. Furthermore PPW, it states that, in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and new isolated homes in the countryside should be avoided, unless special circumstances apply in compliance with provisions of TAN6.

Pen-y-Bont Fawr is classified as a large village within the Powys Unitary Development Plan. Pen-y-Bont Fawr is served by a range of community services such as a village shop/post office, garage, primary school, public house and there is a bus service to Oswestry.

Therefore, on balance Officers consider that additional residential development in this location would accord with the provisions of Planning Policy Wales as it is considered to be a sustainable location.

Appearance, Layout and Style

UDP policy HP5 (Residential Development) indicates that development proposals will only be permitted where the scale, form and appearance of the development generally reflects the character and appearance of the existing settlement.

Consent is currently sought in outline with all matters relating to appearance, layout and scale all being reserved and to be considered under the reserved matters application.

Having visited the application site it is considered that the site is capable of accommodating two detached 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.

Highway Safety and Movement

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking.

The Highway Authority has been consulted on this application and had raised concerns with regards to the access and visibility splays.

Following the submission of amended plans the Highways Authority raised no objections to the development subject to the suggested conditions listed above.

In light of the highways officers comments it is considered that the proposed dwellings fundamentally comply with Policy GP4 of the Powys Unitary Development Plan 2010.

Residential Amenity

Policy GP1 of the Powys UDP seeks to safeguard the amenities enjoyed by occupants of existing and proposed dwellings by reasons of noise, overlooking and privacy.

The proposed dwellings are located to the rear of the dwelling of Glanaber. The site is located approximately 23 metres south of the rear elevation of the dwelling known as Glanaber.

Due to the distance between the proposed site and neighbouring dwellings it is considered that the proposed dwellings have been sited so as to not impact the right to light or privacy afforded to the existing dwellings.

In light of the above observations, Development Management considers the proposed development to be in accordance with policy GP1 of the Powys UDP in respect of residential amenity.

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.

Pen-Y-Bont Fawr is identified as a settlement where the Welsh Language is important to the social, cultural and community fabric of the area.

In the 2011 census the overall number of Welsh Speakers in Pen-Y-Bont-Fawr has fallen from the 2001 census. With age 3 + the percentage has decreased from 56.3% to 50%. With ages 3-15 has decreased from 83.6% to 78.9%. However the age group from 16-64 has seen an increase from 49.4 % to 51.5%. With those aged 65+ has seen a significant decrease from 57.5% to 30.1%.

A Welsh Language Assessment has been submitted alongside the application. The assessment argues that the data illustrates that Penybontfawr has suffered from a decline of welsh speakers in the village. With every rural village, it suffers from an ageing population,

and new housing will provide an opportunity for young families to live in the village, with the potential of children attending Penybontfawr Primary School which is a Welsh medium school.

In relation to economic development, it is considered that the potential construction of the dwellings would contribute to the economy of the local area. This is based on the assumption that most construction projects of this scale are normally undertaken by local trade's people. It is therefore considered that the construction of this development would have a neutral or positive impact on the local economy and jobs which is considered positive from a Welsh language and culture perspective.

With regard to the developments impact on the primary school, given the scale of the proposed development, the impact on schools is considered to be favourable. Rural schools such as Pennant, are under pressure to remain open, and additional housing, will only increase the numbers of pupils within the school. Pennant Primary is a Welsh medium school, and therefore will have a significant positive impact on the Welsh Language and Culture, by increasing the number of young local people speaking Welsh.

The development of two dwellings in this settlement is not considered to have a detrimental impact on the cultural or linguistic vitality of the area.

Loss of agricultural land

Following consideration of information supplied by Welsh Government through the Provision of Agricultural Land Classification due regard has been given to the classification afforded to the application site. The site in question has been indicated as category 3b agricultural land.

Planning Policy Wales (PPW) paragraph 4.10 outlines national policy towards conserving Wales' Best and Most Versatile (BMV) agricultural land. PPW states that;

“In the case of agricultural land, land of grades 1, 2 and 3a of the Department for Environment, Food and Rural Affairs (DEFRA) Agricultural Land Classification system (ALC) is the best and most versatile, and should be conserved as a finite resource for the future. In development plan policies and development management decisions considerable weight should be given to protecting such land from development, because of its special importance. Land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations. If land in grades 1, 2 or 3a does need to be developed, and there is a choice between sites of different grades, development should be directed to land of the lowest grade.”

In light of the lands classification of category 3b it is considered that the proposed development on this agricultural land is justified in respect of the current housing land supply shortage within the county.

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 significant weight in favour of this development and given that the proposal would otherwise comply with development plan and national planning policies, the recommendation is one of conditional consent.

Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out in accordance with the plans stamped as approved on xxx in so far as the extent of the application site is drawn and the access point onto the C2015 highway (drawing no: RPP/GD-JO837-03).
5. Prior to the occupation of the dwelling any entrance gates shall be set back at least 6 metres distant from the edge of the adjoining carriageway (B4391) 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.
6. Prior to the commencement of the development the gradient of the access onto the B4391 shall be constructed so as not to exceed 1 in 15 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
7. Prior to the commencement of the development the centre line of the first 10 metres of the access road onto the B4391 measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.
8. Prior to the commencement of the development the access onto the B4391 shall be constructed so that there is clear visibility 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 129 metres in an easterly direction and 59 metres in a westerly 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 areas 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.
9. The width of the access carriageway onto the B4391, constructed as above, shall be not less than 5.5 metres for a minimum distance of 10 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.
10. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom to a maximum of 3 excluding any garage space provided. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.
11. No storm water drainage from the site shall be allowed to discharge onto the county highway.

12. Prior to first installation a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written Local Planning Authority approval and implemented as approved and maintained thereafter.
13. Prior to commencement of development, a reptile and small animal Reasonable Avoidance Method Statement shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.

Reasons

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
6. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
7. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
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.
11. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
12. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
13. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

Informative Notes

PCC Building Control

Building Regulations application required.

Wales and West Utilities

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.

Biodiversity

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

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.

Reptiles - Wildlife & Countryside Act 1981 (as amended)

All UK native reptile species are protected by law. The Wildlife & Countryside Act 1981 (and later amendments) provides the legal framework for this protection.

The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury

All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.

Case Officer: Sara Robinson- Planning Officer
Tel: 01597 827229 E-mail:sara.robinson@powys.gov.uk