

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: P/2017/0770

Grid Ref: 317583.43
302357.63

Community Council: Berriew

Valid Date: 27/07/2017
Officer: Rachel Mulholland

Applicant: Ms Helen Thomas, Cil Common Stables, Cefn-Y-Faenor, Berriew, Welshpool, SY21 8AX.

Location: Cil Common Stables, Cefn-Y-Faenor, Berriew, Welshpool, SY21 8AX.

Proposal: Full: Demolition of existing stable building and erection of new dwelling, installation of septic tank and creation of new access 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 within the rural settlement of Cil (Berriew) approximately 1.2 miles northwest of Berriew. The site is to be accessed by a new vehicular access point from the county highway (B4385) to the northeast. The nearest neighbouring residential properties are located approximately 29 metres to the north of the proposed dwelling. The site has neighbouring dwellings to the north, the county highway to the northeast and agricultural buildings to the east, northwest and southwest with agricultural fields surrounding.

This application represents a departure from the current Unitary Development Plan and seeks full consent for the demolition of an existing stable building and the erection of one dwelling, installation of a septic tank, creation of a new access and all associated works. The dwelling is proposed to be single storey in construction finished with rendered external walls and concrete tiled roof. The dwelling is located in the centre of the site with the access and driveway to the northeast.

The dwelling measures, at its widest points, 12.3 metres by 8.7 metres with a height of approximately 4.5 metres. The existing stable to be demolished measures 11.2 metres by 3.2 metres with a height of 5.1 metres and is of timber boarded construction.

Consultee Response

Berriew Community Council

No comments have been received at the time of writing this report.

PCC Highways

Correspondence received 17 October 2017

Thank you for the attached, however there are still some issues with the revised plan. Please could you request for the agent to amend the plan to include the following:

Visibility: The visibility splay to the right of the access encroaches slightly onto third party land, we need clarification as to whether notice has been served on the landowner, if so please could this area be included in the red line. If not, please could the splay be redrawn so as not to include third party land. The visibility splay to the left is drawn incorrectly, please could you request this to be redrawn.

Entrance gates: Please could the distance for the entrance gates from the edge of the carriageway be shown on the plan.

The material composition for the entrance needs to be included within the plan.

Gradient: The gradient of the entrance needs to be clearly marked along with the distance this gradient will continue from the edge of the carriageway.

Width: Please ask the agent to include the width of the entrance on the plan.

Drainage: The proposal for surface water drainage at the entrance is required to be included on the plan.

Correspondence received 17 November 2017

The County Council as Highway Authority for the County Class II Highway, B4385

Wish the following recommendations/Observations be applied

Recommendations/Observations

- HC1 Prior to the first beneficial use of the development any entrance gates shall be set back at least 11 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
- HC2 The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 11 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.
- HC7 Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course

material and 60mm of bituminous macadam binder course material for a distance of 11 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

- HC8 Prior to the occupation of the development, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.
- HC11 Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
- HC12 The width of the access carriageway, constructed as Condition HC7 above, shall be not less than 4.8 metres for a minimum distance of 11 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.
- HC21 Prior to the occupation of the development the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 11 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,
- HC29 All surface water run-off is to be collected and discharged via a piped system to a soakaway located within the site no less than 6 metres from the highway. This system shall be retained and maintained for as long as the development remains in existence.
- HC30 Upon formation of the visibility splays as detailed in HC4 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.
- HC32 No storm water drainage from the site shall be allowed to discharge onto the county highway.

In the interests of highway safety.

PCC Building Control

Correspondence received 7 August 2017

Building Regulations application required.

Wales and West Utilities

Correspondence received 8 August 2017

Wales & West Utilities acknowledge receipt of your notice received on 07.08.2017, advising us of the proposals for:

Cil Common, Berriew, Welshpool, Powys, SY21 8AX

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

Correspondence received 16 August 2017

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.

PCC Environmental Health

Correspondence received 8 August 2017

Foul Drainage

Can the agent/applicant submit the details of the septic tank/treatment plant along with percolation test results to demonstrate the suitability of the ground conditions and to determine the area of land required for the drainage field please?

On the proposed block plan there is mention of designing the drainage field in accordance with BRE 365 – this is an inappropriate method as it is only suitable for rainwater soakaways, not foul effluent. The approved methodology can be found in document H2 of the Building Regulations.

Correspondence received 12 October 2017

Thanks for forwarding these amended plans.

I am satisfied with the proposal to connect the foul effluent to the existing septic tank system. Therefore, I have no objection to this application.

PCC Ecologist

Correspondence received 29 August 2017

Thank you for consulting me with regards to planning application P/2017/0770 which concerns the full planning application demolition of existing stable building and erection of new dwelling, installation of septic tank and creation of new access and all associated works at Cil Common Stables, Cefn-Y-Faenor, Berriew, Welshpool.

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 15 records of protected and priority species within 500m of the proposed development – no records were for the site itself.

There are is one statutory designated site present within 500m of the developments:

- Caeau Glyn (Glyn Fields) – SSSI

Having considered the location and nature of the proposed development in relation to the designated site it is considered that the proposed development would not result in a negative impact to the designated sites or their associated features.

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

Given the proposed developments involve demolition of an existing barn structures, consideration has been given to the potential for the existing structure to support roosting bats – bats being a European protected species.

Reviewing on site photographs the existing barn that is proposed to be demolished is considered to have potential to support roosting bats and the surrounding habitat appears favourable to bats for commuting and foraging. Given the proximity of trees, hedgerows and watercourse surrounding the property and that the existing barn is of traditional construction it is considered a reasonable level of likelihood that bats would be using the site - It is then considered that the proposed development may result in the loss of features or habitat suitable for bats.

Therefore, it is considered that there is insufficient information with regard to potential impacts to bats, a European protected species, to determine this application.

In order to assess the potential impacts to roosting bats, as a minimum a preliminary assessment of the existing buildings that are proposed be demolished for its bat roost potential and the potential for any impacts is required. This assessment needs to be undertaken by an appropriately experienced and licensed bat consultant. If this preliminary bat roost assessment identifies potential bat roosting opportunities and/or actual bat roosts that will be affected by the proposals then further bat survey work will be required. If bat accesses or roosts are found that will not be affected by the proposals a method statement must be submitted to demonstrate how the proposed works will avoid any impacts to bats.

The preliminary bat roost assessment shall include a full internal and external inspection of the building and an assessment of how the proposed development works may affect any potential or actual bat roost features, as well as incorporating opportunities for bats within the completed development. The preliminary bat roost inspection must be undertaken by an appropriately experienced and licensed ecologist and must adhere to the current standard survey methodology published by Bat Conservation Trust.

Bat activity surveys will need to be undertaken in accordance with the Bat Conservation Trust's Bat Surveys for Professional Ecologists – Good Practice Guidelines 3rd Edition (2016) and Powys County Council's planning application guidance note (Powys Bat Survey Guidance 2009). Therefore, the survey should be undertaken by suitably licensed and qualified ecologists and comprise a thorough internal and external inspection and three activity surveys during the recognised activity season May – September, the surveys should be spread throughout the activity season (as far as reasonably possible to do so) to allow a broad picture of any bat roost use of the site to be developed. Where deviations from the standard guidelines are considered to be necessary, full justifications for the methods used will be required.

Ecological reports submitted to support a planning application should include the required information identified in Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009).

If bats are found to be using the building for roosting purposes and there is potential for the roost to be destroyed or disturbed i.e. an offence is likely to be committed a European protected species licence would be required to allow the works to proceed, as part of the planning process the Local Planning Authority must establish whether the three tests as defined by the Conservation of Habitats and Species Regulations 2010 (as amended) have been met prior to determining the application. If the Wildlife Licensing Unit at Natural Resources Wales (NRW) is also happy that these Tests have been satisfied, then an EPS development licence can be granted.

The three tests that must be satisfied are:

1. That the development is “in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment”.
2. That there is “no satisfactory alternative”
3. That the derogation is “not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range”

In order to address the 3rd test appropriate mitigation would need to be identified. The proposed mitigation will need to be located in a suitable location and appropriate to the species identified. Mitigation details need to be clearly illustrated on the architectural plans and must provide sufficient detail to enable them to be subject to a planning condition/s106 agreement.

Details of ecological consultants working in Powys can be found at <http://www.cieem.net/members-directory> (please note this is not a Powys County Council

approved list of ecological consultants but lists ecological consultants who are members of the Chartered Institute of Ecology and Environmental Management). I have also attached some guidance notes regarding commissioning ecological consultants to undertake survey work.

Reviewing the proposed plan a new access has been proposed. It is unclear if tree or hedgerows will need to be removed to accommodate the new access. However, 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.

Where impacts to trees and hedgerows are identified an appropriate compensation strategy will be required, where possible translocation of the existing hedgerow should be considered, if this is not considered possible at this location replacement hedgerow planting would need to be identified.

Where it is necessary to remove any trees or hedgerows a Tree and Hedgerow Replacement and Protection Plan will need to be secured through an appropriately worded condition. This plan will need to identify appropriate compensation planting for the loss of any trees or hedgerow – details of the location, length and species as well as an appropriate aftercare scheme will need to be identified – species used will need to be native and reflect the hedgerows present in the local area.

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

Careful consideration will need to be given to any external lighting design provided through the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area. A wildlife sensitive lighting plan could be secured through a planning condition, however the provisions of details submitted at this stage would avoid the need for a pre-commencement condition requiring this information.

Correspondence received 9 November 2017

Thank you for consulting me with additional information submitted regarding planning application P/2017/0770.

The additional information submitted has been provided in response to a request for a preliminary bat assessment to enable the LPA to assess the potential impacts of the proposed development to biodiversity, in particular with regards to bat species.

A bat assessment survey has been undertaken to assess the potential of the development to impact bats – bats being a European Protected Species.

I have reviewed the two ecological reports submitted;

Bat Assessment Report produced by Teme Ecology dated February 2016
Update Building Inspection for Bats report produced by Acer Ecology dated September 2017

I consider that the survey effort employed in both report was in accordance with National Guidelines.

Bat Assessment Report produced by Teme Ecology dated February 2016

The surveys undertaken included internal and external inspections of the existing barn to identify any potential features to support roosting bats– -three activity surveys were undertaken in August and September 2015.

The preliminary survey was carried out on 17th August 2015. The existing barn where works are proposed has a corrugated single pitch, metal clad roof. The walls comprises of wooden cladding except for the south western elevation which is corrugated metal. The south eastern elevation contains three wooden stable doors for access, an unglazed window frame and a hayloft door to the first floor. On the north eastern elevation a small 'lean to' extension is present. A section of ivy growth is present over the rear of the building from the adjacent hedgerow. Gaps were noted around the door, at corners of the building between the timber cladding, metal sheets and the wooden frame. Along with open space provided by the unglazed window it is considered that the building provide access for both bats and bird species for roosting and nesting purposes/features. Internally the timber frame was noted to have a small number of suitable gaps which could offer roosting opportunities for bats. No bats dropping were found during the inspection and no further evidence of bats were found.

Three activity surveys were undertaken on the 7th August 2015 (dusk emergence), 15th August 2015 (dawn re-entry) and 9th September 2015 (dawn re-entry). During the surveys a high proportion of bat foraging and commuting activity was recorded in and around the site. During surveys undertaken on the 7th August and 15th August no bats were observed emerging or entering the barn. During the survey undertaken on the 9th September a brown long-eared bat was seen entering that barn through a gap on the southern corner of the barn, a common pipistrelle was observed entering the barn through a gap between the wooden cladding close to the roofline on the southern western elevation and a soprano pipistrelle was observed entering the barn through the open stable door at the southern end of the barn. It was noted that birds were utilising the barn for nesting purposes.

Therefore mitigation measures regarding bats and compensatory measures regarding nesting birds were recommended within the bat assessment report.

Update Building Inspection for Bats report produced by Acer Ecology dated September 2017

An updated building inspection for bats report has been undertaken to assess the potential new/amended planning application to impact bat.

The updated survey report was undertaken as a previous bat survey report was undertaken in 2015.

The stable building was found to be largely in the same condition as that recorded during the initial bat survey. However, a section of the external timber-cladded wall has fallen at the northern elevation. A large gap has also appeared on the first floor of the of the northern elevation.

Six bat droppings were recorded on the timber cladding on the inside of the north-western gable end wall on the first floor of the barn. No dropping were recorded within the barn building where previously 3 bat species were recorded roosting during the dawn re-entry survey on the 9th September 2015.

It was also noted that three old swallow nest, one old thrush nest and an active swallow nest were recorded within the barn.

The ecology report submitted by Acer ecology concludes that the finding of dropping and the previous finding of the ecology survey carried out by Teme ecology considered that the barn is likely to be utilised by low number of bats during the active season as a temporary roost. No further surveys were considered necessary.

As the proposed works requires the demolition of the barn - the proposed works will therefore result in the damage/destruction of a bat roost, as such a European Protected Species Development Licence will be required.

Mitigation measures were identified in section 6 of the bat survey report carried out by Teme ecology. Mitigation measures include bat boxes to be erected on site prior to works commencing, timing of works to be carried out in the winter months, retention of the timber frame removing metal sheeting and recovering roof with roof slates, breathable roofing membranes not be used, wall clad in timber repaired/replaced and suitable gaps incorporated for bats to gain access into the new roof.

At the time of the Teme ecology report was undertaken the proposed works to be carried out on the barn was to modify the existing barn. However the submitted plans for the current application propose demolition of the existing barn.

Therefore it is considered that the recommended mitigation measures in Teme Ecology report is not all appropriate for the current application proposals. No further mitigation measure have been put forward by the revised report produced by Acer Ecology.

A relevant mitigation strategy for bats and nesting birds appropriate to the current application proposals is required to be submitted. Mitigation Measure details such as type of features, number and location of the features (i.e gap in cladding, bat access slates, bat boxes) must be CLEARLY illustrated on architectural drawings/plans.

This information is required to demonstrate that appropriate mitigation can be provided to ensure no negative impact to the favourable conservation status of bat species identified as roosting in the barn in accordance with the requirements of the Conservation of Habitats and Species Regulations 2010 (as amended).

Once this additional information has been provided it will ensure that the mitigation measures are appropriate and implementation of the mitigation measures are secured through an appropriately worded condition.

Tree and Hedgerow Protection

Given the proximity of proposed development works to surrounding trees and hedgerows, 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.

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 principle 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. Where impacts to hedgerows are identified an appropriate compensation strategy will be required, where possible translocation of the existing hedgerow should be considered, if this is not considered possible at this location replacement hedgerow planting would need to be identified.

As such I recommend that a Tree and Hedgerow Replacement and Protection Scheme is submitted in detail, where it is necessary to remove any trees or hedgerow this plan will need to identify appropriate compensation planting for the any loss– details of the location, length and species as well as an appropriate aftercare scheme will need to be identified – species used will need to be native and reflect the trees and hedgerows present in the local area.

This information could be secured through a planning condition, however the submission of a Tree and Hedgerow Replacement and Protection Plan would avoid the need for a pre-commencement condition requiring this information.

Wildlife Sensitive Lighting Plan

Careful consideration will need to be given to any external lighting, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area. This information could be secured through a planning condition, however the submission of a

Wildlife Sensitive Lighting Plan would avoid the need for a pre-commencement condition requiring this information.

Landscaping Plan

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. This information could be secured through a planning condition, however the submission of a Landscaping Planting Scheme would avoid the need for a pre-commencement condition requiring this information.

Correspondence received 3 January 2018

Thank you for consulting me with additional information submitted regarding planning application P/2017/0770.

The additional information submitted has been provided in response to a request for appropriate mitigation to be recommended regarding bats and nest birds to enable the LPA to assess the potential impacts of the proposed development to biodiversity, in particular with regards to bat species.

I have reviewed the Ecological Report produced by Acer Ecology dated December 2017.

As it is stated that a EPS Development Licence will be required for the proposed development – the ecological assessments undertaken identify that there is a likelihood for the proposed development resulting in a negative impact to bats. Therefore appropriate mitigation strategy recommended in the ecological report has demonstrated that there would be no negative impact to the favourable conservation status of the species.

Given the identified mitigation measures in section 4 of the ecological survey report by Acer Ecology dated December and illustrated on Plan 3a and Plan 3b produced by Acer Ecology dated December 2017 - I consider that the proposed developments will not result in the loss of any features of ecological importance and it is considered the proposed works are unlikely to have a negative impact to biodiversity in the wider area. I therefore recommend that implantation of the mitigation measures are secured though an appropriately worded condition.

Therefore further to my previous responses on the 29th August and 9th November should you be minded to approve the application I recommend inclusion of the following conditions:

The mitigation measures regarding bats and nesting birds identified in section 4 of the Update Building Inspection Report by Acer Ecology dated December 2017 shall be adhered to and implemented in full and maintained thereafter unless otherwise agreed in writing by the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2 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 2016.

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 in full 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.

No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3, ENV5 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 2016.

In addition I recommend inclusion of the following informative:

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

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

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

Representations

Following display of a site notice on 09/08/2017 and publicity in the local press on 06/10/2017 one letter of objection and one letter of support has been received on the application.

The letter of objection can be summarised as follows:

- Concerns over the proposed access and highway safety
- Concerns over drainage proposal

The letter of support can be summarised as follows:

- Dwelling is well designed and integrated into the site
- It is a small single storey property
- The application is by a local family not a property developer

Planning History

DIS/2017/0137 – Discharge of condition no. 14 & 15 of P/2016/0160 (Refused 25/08/2017)

P/2016/0160 – Conversion of farm building into residential dwelling including alterations to access and other auxiliary works (Conditional Consent 06/07/2016)

P/2015/0245 – Full: Siting of a temporary mobile home in connection with existing equestrian business (Application withdrawn 08/07/2015)

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) 6 – Planning for Sustainable Rural Communities (2010)

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)

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

SP3- Natural, Historic and Built Heritage

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
HP3 – Housing Land Availability
HP4 – Settlement Development Boundaries and Capacities
HP5 – Residential Development
HP6 – Dwellings in the Open Countryside
HP9 – Affordable Housing in Rural Settlements
DC3 – External Lighting
DC11 – Non-mains Sewage Treatment
DC13 – Surface Water Drainage

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.

Planning History

Planning permission was granted in full for the conversion of a farm building into a residential dwelling including alterations to access and other auxiliary works under planning reference P/2016/0160. The current application now seeks to demolish the former agricultural building and provide a new dwelling house on the original footprint, albeit a slightly larger building.

Principle of Development

The application site lies 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. In rural areas, Planning Policy Wales indicates that new development should be located in settlements which have relatively good accessibility to services by non-car modes when compared to the rural area as a whole.

Cil is a rural settlement approximately 1.2 miles northwest of Berriew which is identified in the UDP as a key settlement. Berriew is served by a range of community services and facilities including a primary school, shops, public houses, church hall, football club and children's play area. It is also easily accessible by public transport with regular bus services to Newtown and Welshpool. The application site is located approximately 6 miles from Welshpool and 10 miles from Newtown.

In light of the range of services located within a short travelling distance of the development site that permission has been granted previously for the provision of a single dwelling on the application site, officers consider that there is an argument to support the principle of residential development at this location given its siting within an existing rural settlement.

Therefore, the proposed site is considered to be a sustainable location for residential development of 1 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 rendered external walls and a concrete tiled roof. The dwelling measures, at its widest points, 12.3 metres by 8.7 metres with a height of approximately 4.5 metres. The total floorspace measures approximately 89 square metres.

Officers consider that the proposed dwelling 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 dwelling fundamentally complies 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 considered not 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 29 metres from the nearest neighbouring dwellings to the north. 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.

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 Cil being adjacent to existing dwellings. It is considered that the proposed site is well integrated with the existing settlement 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 the relocation of an existing hedgerow and the retention of existing 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 agricultural building, taking into account the location in close proximity to 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 and access construction methods and materials.

In light of the Highway Officer's comments, and subject to the suggested conditions, 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 location of the site less than 500 metres from the Caeau Glyn (Glyn Fields) SSSI, 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 15 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 Caeau Glyn (Glyn Fields) SSSI. 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.

On the request of the Powys Ecologist an Ecological Report has been submitted for the development site. This Report has identified mitigation measures to be undertaken regarding bats and nesting birds. No objections have been raised to the development by the Ecologist subject to the inclusion of conditions securing the suggested mitigations measures as well as the submission of a Tree and Hedgerow Protection Plan and a Lighting Design 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 existing septic tank 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.

Concerns have been raised by a local objector regarding the proposed drainage for the site and the suitability of the existing drainage provision; however, the Environmental Health Officer has assessed the existing septic tank and has raised no concerns or objections to the proposal.

In light of the above 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 Berriew 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 Berriew Ward reported that 10.4% of the population spoke Welsh. This is a decrease from the 2001 census which stated that 13.7% of the population of Berriew spoke Welsh. Whilst there are limited facilities in the area the development of one dwelling in this location is not considered to have a detrimental impact on the cultural or linguistic vitality of the area.

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: SA26972/03, SA26972/02 Rev C, Front Elevation Rev 1.1, Rear Elevation Rev 1.1, Side Elevation)

3. Prior to the first beneficial use of the development any entrance gates shall be set back at least 11 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
4. The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 11 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.
5. Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 11 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
6. Prior to the occupation of the development, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.
7. Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
8. The width of the access carriageway, constructed as Condition 5 above, shall be not less than 4.8 metres for a minimum distance of 11 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.
9. Prior to the occupation of the development the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 11 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.
10. All surface water run-off is to be collected and discharged via a piped system to a soakaway located within the site no less than 6 metres from the highway. This system shall be retained and maintained for as long as the development remains in existence.
11. Upon formation of the visibility splays the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.
12. No storm water drainage from the site shall be allowed to discharge onto the county highway.

13. The mitigation measures regarding bats and nesting birds identified in Section 4 of the Update Building Inspection Report by Acer Ecology dated December 2017 shall be adhered to and implemented in full and maintained thereafter unless otherwise agreed in writing by the Local Planning Authority.
14. Prior to the commencement of development a Tree and Hedgerow 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.
15. No external lighting shall be installed until a detailed external lighting design scheme identifying measures to avoid impacts on nocturnal wildlife has been submitted to and approved in writing by the Local Planning Authority. The external lighting shall thereafter be implemented in accordance with the lighting design scheme as approved.

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. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
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.
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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. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
13. To comply with Powys County Council's UDP Policies SP3, ENV2 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 2016.
14. 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.
15. To comply with Powys County Council's UDP Policies SP3, ENV3, ENV5 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 (2009) 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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