

Planning, Taxi Licensing and Rights of Way Committee Report

UPDATE

Application No:	P/2017/0444	Grid Ref:	311018.6 312889.79
Community Council:	Llangyniew	Valid Date:	Officer: 24/04/2017 Eddie Hrustanovic
Applicant:	Mr & Mrs N Proudlove & K Proudlove-Banks 56 Warrane Road, North Willoughby NSW 2068 Australia, 29 Camp Road, Phoenix New York 13135 USA		
Location:	Land adj Lon-Yr-Ywen, Pontrobert, Powys, SY22 6JT		
Proposal:	Outline: Proposed residential development of up to 5 no. dwellings, formation of vehicular access and associated works (some matters reserved)		
Application Type:	Application for Outline Planning Permission		

The reason for Update

This report forms as an update to the previous report circulated to Members. Additional comments/representations have been received from the objectors following publication of officers' report.

Representations

Additional comments have been received the objectors which relate to the content of the Committee Report. In summary, the comments relate to;

- The objectors state that out of nine plots two are still vacant and have been for over 7/8 years. The roadway is still not finished, and never been tarmacked.
- In respect of the Highways conditions/comments, the objectors note that it will be physically impossible to construct a roadway for the first 15 metres to width specifications. The 5 metre width requirement could be achieved over the first 12 metres by using 3rd party land and after that it would encroach upon the curtilage of number 8 Lon Yr Ywen.
- The Objectors contest statement made by Powys Land Drainage Officer in respect of the existing drainage ditch, and they deny that they have dug a drainage ditch at the back of their properties that discharged water on to the public highway. They state that the original developer/builder by agreement with the then land owner of the fields arranged for the ditch to be dug. Unfortunately, the ditch that was dug behind number

3 Lon Yr Ywen partially collapsed. When the owner of that site moved in he paid for it to be reinstated as his land was being flooded. The objectors also state that Land Drainage Authority (PCC) did not enforce original drainage requirements for the estate, which now cause issues.

- The objectors state that if this development is permitted, that the authority carries out enforcement procedures in strict accordance with any requirements placed on any developer.
- The objectors note that it will not be possible to reinstate any ground to its original appearance should an attenuation tank ever be installed. Physically the site would have to be excavated to quite some depth and being on a hill there would inevitably be a prominent scar in the hillside. Access and maintenance would dictate that the buffer field would never be the same.

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 (2016)
TAN 18 - Transport (2007)
TAN 20 - Planning and the Welsh Language (2017)
TAN 23 – Economic Development (2014)
TAN 24 – The Historic Environment (2017)

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 GP5 – Welsh Language and Culture
UDP HP3 - Housing Land Availability
UDP HP4 - Settlement Development Boundaries and Capacities
UDP HP6 - Dwellings in the Open Countryside
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 ENV1 - Agricultural Land
UDP ENV2 - Safeguarding the Landscape

UDP ENV3 - Safeguarding Biodiversity & Natural Habitats
UDP ENV7 - Protected Species
UDP ENV14 - Listed Buildings
UDP ENV17 - Ancient Monuments and Archaeological Sites
UDP TR2 - Tourist Attractions

Powys Residential Design Guide

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.

Additional comments/representations

In relation to the additional comments received it is accepted that there are two remaining plots which have not been fully developed and contain footings/slab levels.

In respect of the highways issues, Powys Highways have issued relevant conditions which are attached to the planning permission in accordance with the submitted plans. Public representations have raised issues in respect of land ownership of the access route leading from the existing estate road to the site and inability to construct the access as per conditions. The objectors note that the applicant does not have legal rights of way to the site via the proposed route and that access will encroach onto 3rd party land. These comments are noted, however it is important to note that legal issues of land ownership cannot be resolved via planning process and these are legal issues between the relevant owners outside planning procedures and the Local Planning Authority cannot get involved in this instance.

In respect of Land Drainage, it is important to note that PCC Land Drainage Officer has advised that they have no objection to the development and therefore Development Management is satisfied that the surface water disposal system can be accommodated at the site as indicated on the revised plans subject to conditions. Therefore it is considered that the proposed development is in accordance with UDP Policy DC13. Planning Department holds no evidence in respect of drainage ditches have not been constructed as per approved development.

Members should note that this is outline planning application and that reserved matters application can contain detailed drawings indicating land/topographical cross sectional levels/drawings.

Other Legislative Considerations

Crime and Disorder Act 1998

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

Equality Act 2010

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

Having due regard to advancing equality involves:

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

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

Planning (Wales) Act 2015 (Welsh language)

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

Wellbeing of Future Generations (Wales) Act 2015

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

Recommendation

Whilst this report forms an update to the original report, it is considered that the recommendation remains the same as set out in the original report. Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies.

The recommendation is therefore one of conditional approval subject to conditions as specified below;

1. Details of the access, 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 xxxx in so far as the extent of the application site is drawn and the access point onto the unclassified highway (drawing no: RPP/TW-JOB18-03 Rev E).

5. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 20% affordable dwellings;
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

6. The affordable dwellings shall have a maximum gross floor area of 130 square metres (measured internally and including garages where designed as an integral part of the dwelling) and notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), the affordable dwelling shall not be subject to extensions, roof alterations and buildings other than those expressly authorised by the reserved matters approval.

7. Upon the submission of Reserved Matters referred to within Condition 1 and 2, full engineering details and drawings for the provision and protection of all existing and proposed land drainage systems shall be submitted to and agreed in writing by the Local Planning Authority. These details shall include arrangements for the surface water drainage of the site, the design for which shall follow Welsh Government's non-statutory standards for sustainable drainage in Wales, to include a management and maintenance plan for the lifetime of the

development and shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of these land drainage and surface water systems throughout their lifetime. The scheme to be submitted shall show foul drainage being connected to the public sewerage system. The development shall only take place in accordance with these agreed details and be fully completed before any dwellings are occupied.

8. Upon the submission of the reserved matters referred to within Conditions 1 and 2, the landscaping details shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year defects period.

10. Prior to the construction of the dwellings hereby approved details and/or samples of the materials to be used in the construction of the external surfaces of the dwellings shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

11. Any entrance gates shall be set back at least 10 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.

12. The gradient of the access shall be constructed so as not to exceed 1 in 20 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.

13. The centre line of the first 5.5 metres of the access road 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.

14. Before any other development commences clear visibility shall be maintained above a height of 0.6 metres above carriageway level over the full frontage of the developed site to the U2988 road effective over a bandwidth of 2.4 metres measured from the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area 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.

15. No other development shall commence until the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous

macadam binder course material for a distance of 5.5 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

16. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom excluding any garage space provided 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.

17. 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.

18. The width of the access carriageway, shall be not less than 5.0 metres for a minimum distance of 15 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.

19. All access to the development hereby permitted shall be gained via the existing private driveway. No alternative vehicular or pedestrian access shall be used or created to service the site directly from the county highway for as long as the development remains in existence.

20. Prior to the occupation of the dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 5.5 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

21. 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.

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

23. The mitigation measures in section 4.3.2 of the Ecological Appraisal report produced by Turnstone Ecology Limited dated October 2017 shall be adhered to and implemented in full and maintained thereafter.

24. Prior to commencement of development a Tree Protection and Replacement Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.

25. 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.

26. Prior to commencement of development works, a method statement in respect of Reasonable avoidance measures for reptiles and amphibians during the construction phase of the proposal shall be submitted to the Local Planning Authority and shall be implemented as approved. The method statement shall include detail of timing of works, biosecurity and methods of trapping and relocating.

27. Prior to occupation of any dwelling a Welsh Language and Culture mitigation plan including details of mitigation measures and their implementation of measures shall be submitted to and approved in writing by the local planning authority. The measures to support the Welsh Language and Culture shall be implemented as agreed.

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 order to ensure the provision of affordable housing in accordance with Policy HP7 of the Powys Unitary Development Plan (2010) and the Affordable Housing for Local Needs Supplementary Planning Guidance (2011).
6. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution in accordance with Policies GP1, DC10 and DC13 of the Powys Unitary Development Plan (2010).
7. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution in accordance with Policies GP1, DC10 and DC13 of the Powys Unitary Development Plan (2010).
8. To ensure a satisfactory and well planned development, to ensure protection is afforded to mature trees on the southern boundary of the site and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with Policies GP1 and ENV2 of the Powys Unitary Development Plan (2010).
9. To ensure a satisfactory and well planned development, to ensure protection is afforded to mature trees on the southern boundary of the site and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with Policies GP1 and ENV2 of the Powys Unitary Development Plan (2010).
10. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the buildings in accordance with policies GP1 and GP3 of the Powys Unitary Development Plan and the Councils Residential Design Guide.
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.
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22. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
23. 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.
24. 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.
25. 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.
26. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
27. To comply with the Powys County Council UDP Policy GP5 and Technical Advice Note 20: Planning and the Welsh Language (2017).

Notes

Land Drainage - The erection of any proposed surface water drainage outfall structure to effect an ordinary watercourse will require prior consent from Powys CC (as Lead Local Flood Authority), in accordance with Section 23 of the Land Drainage Act 1991 (as amended by the Flood & Water Management Act 2010). Further information can be found at: <http://www.powys.gov.uk/en/roads-transport-and-parking/ordinary-watercourses-applying-for-consent-for-works/>.