

Planning, Taxi Licensing & Rights of Way Committee

Meeting Venue
**Council Chamber - County Hall,
Llandrindod Wells, Powys**

Meeting Date
Thursday, 17 January 2019

Meeting Time
10.00 am



County Hall
Llandrindod Wells
Powys
LD1 5LG

For further information please contact
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10 January, 2019

You are welcome to speak Welsh or English in the meeting and a simultaneous translation service will be provided.

AGENDA

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| 1. | APOLOGIES |
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To receive apologies for absence.

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| 2. | MINUTES OF THE PREVIOUS MEETING |
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To authorise the Chair to sign the minutes of the previous meeting of the Committee held on 6 December, 2018 as a correct record.

(To Follow)

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| Planning |
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| 3. | DECLARATIONS OF INTEREST |
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- a) To receive any declarations of interest from Members relating to items to be considered on the agenda.
- b) To receive Members' requests that a record be made of their membership of town or community councils where discussion has taken place of matters for the consideration of this Committee.
- c) To receive declarations from Members of the Committee that they will be acting as 'Local Representative' in respect of an individual application being considered by the Committee.

d) To note the details of Members of the County Council (who are not Members of the Committee) who will be acting as 'Local Representative' in respect of an individual application being considered by the Committee.

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| 4. | PLANNING APPLICATIONS FOR CONSIDERATION BY THE COMMITTEE |
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To consider the reports of the Head of Regeneration and Regulatory Services and to make any necessary decisions thereon.

(Pages 5 - 6)

4.1. Updates

Any Updates will be added to the Agenda, as a Supplementary Pack, wherever possible, prior to the meeting.

(To Follow)

4.2. P/2018/0237 Land Adjoining Glandwr, Heol Vaynor, Newtown, Powys, SY16 1RE

(Pages 7 - 28)

4.3. P/2018/0316 4 Sites On River Severn, Newtown, Powys

(Pages 29 - 54)

4.4. 18.0390. REM Maes Y Nant, Berriew, Welshpool, Powys, SY21 8BG

(Pages 55 - 62)

4.5. 18.0544.FUL G M Profiles, Station Yard, Abermule, Montgomery, Powys SY15 6NH

(Pages 63 - 74)

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| 5. | DECISIONS OF THE HEAD OF REGENERATION AND REGULATORY SERVICES ON DELEGATED APPLICATIONS |
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To receive for information a list of decisions made by the Head of Regeneration and Regulatory Services under delegated powers.

(To Follow)

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| 6. | APPEAL DECISION |
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To receive the Planning Inspector's decisions regarding appeals.

(Pages 75 - 88)

Rights of Way

7. LOCAL ACCESS FORUM [LAF]

To appoint a Council representative onto the LAF.
(Pages 89 - 94)

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Planning, Taxi Licensing and Rights of Way Committee
17th January 2019

For the purpose of the Government (Access to Information) Act 1985, the background papers relating to each individual planning application constitute all the correspondence on the file as numbered in the left hand column.

Applications for consideration by Committee:

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| Application No: | Nature of Development: |
| Community: | Location of Development: |
| O.S. Grid Reference: | Applicant: |
| Date Received: | Recommendation of Head of Planning: |

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| <p>P/2018/0237</p> <p>Newtown and Llanllwchaiarn</p> <p>E: 308911 N:290841</p> <p>20.02.2018</p> | <p>Full: Construction of access track, parking spaces, changing room building, polytunnel and sheds.</p> <p>Land adjoining Glandwr, Heol Vaynor, Newtown, Powys, SY16 1RE</p> <p>Going Green for A Living Community Land Trust Ltd</p> <p>Recommendation: Conditional Consent</p> |
| <p>P/2018/0316</p> <p>Newtown and Llanllwchaiarn</p> <p>E: 308821 N: 290906</p> <p>09.03.2018</p> | <p>Full: Creation of 4 no. river access points to allow accessible use by canoeists.</p> <p>4 Sites On River Severn, Newtown, Powys</p> <p>Mr Stuart Owen</p> <p>Recommendation: Conditional Consent</p> |

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| <p>18/0390/REM</p> <p>Berriew Community</p> <p>E: 315759 N: 301953</p> <p>24.07.2018</p> | <p>Section 73 application to remove planning condition no. 3 attached to planning permission M2004/0930 (occupancy restriction)</p> <p>Maes Y Nant, Berriew, Welshpool, Powys, SY21 8BG</p> <p>D Davies</p> <p>Recommendation: Consent</p> |
| <p>18/0544/FUL</p> <p>Abermule and Llandyssil Community</p> <p>E: 316249 N: 294550</p> <p>03.10.2018</p> | <p>Erection of lean-to extension to existing warehouse.</p> <p>G M Profiles, Station Yard, Abermule, Montgomery, Powys, SY15 6NH</p> <p>Mr Gareth Pugh</p> <p>Recommendation: Conditional Consent</p> |

4.2

Planning, Taxi Licensing and Rights of Way Committee Report

Application Number: P/2018/0237 **Grid Ref:** E: 308911
N: 290841
Community Council: Newtown And Llanllwchaearn Community **Valid Date:** 20.02.2018

Applicant: Going Green for A Living Community Land Trust Ltd

Location: Land Adjoining Glandwr, Heol Vaynor, Newtown, Powys, SY16 1RE

Proposal: Full: Construction of access track, parking spaces, changing room building, polytunnel and sheds

Application Type: Full application

The reason for Committee determination

The land subject of this application is in Powys County Council's ownership

Site Location and Description

The site is located on an area of open space to the north east of the Vaynor residential development in Newtown. The proposed development would be accessed directly off the adjacent estate road. The surrounding land comprises residential dwellings, playing field and river Severn.

This application seeks consent for a new vehicle access route and parking for up to 5 vehicles and a minibus and trailer. The original scheme also sought consent for an allotment area, however this aspect of the scheme was removed at the planning agents request on the 13th June 2018. The construction details of the proposed development area as follows:

- 2.5m wide access track surfaced with crushed stone
- Hard standing minibus and trailer parking and separate hard standing for car parking

Consultee Response

Newtown Town Council

Letter of the 12th March 2018

The Town Council supports the application.

Highways Authority

1st Response dated 26th March 2018

The County Council as Highway Authority for the County Unclassified Highway, U4228

Wish the following recommendations/Observations be applied
Recommendations/Observations

A recent site visit has raised a number of highway concerns regarding this application due to its complete lack of adequate details, and as such, the Highway Authority recommend refusal for the following reasons:

- Although the Design and Access Statement submitted briefly mentions the types of vehicles proposed to utilise the site, no mention has been made regarding the use of trailers to carry canoes to the area. No details have been submitted regarding the proposed vehicle movements to and from the site, including the breakdown of these movements with the different types of vehicles.
- The access off the U4228 is severely substandard with no proposed improvements submitted. The width of the current access gate at 3m is too narrow to accommodate the passing of two vehicles.
- The gradient and alignment of the access after the first 6m from the edge of the highway are again, not suitable for the proposed development and likely vehicle types accessing the site.
- The proposal states that a car park will be constructed, however no details regarding this proposed area have been submitted. It is essential that the area provides sufficient parking areas to accommodate the volumes and types of vehicles used by visitors to the area to ensure there is no additional parking on the highway around Heol Vaynor or Glandwr.

Second response dated 21st December 2018

The County Council as Highway Authority for the County Unclassified Highway, U4228

Wish the following recommendations/Observations be applied
Recommendations/Observations

Prior to the commencement of any other works, the access and visibility splays are to be constructed in accordance with drawing number SO61.2.1.100 Rev B.

- HC1 Prior to the first beneficial use of the development any entrance gates shall be set back at least 15 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.

- HC3 The centre line of the first 15 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.
- HC7 Prior to the commencement of any other 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 15 metres from the edge of the adjoining carriageway.
- HC21 Prior to the first beneficial use 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 15 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
- HC32 No surface water drainage from the site shall be allowed to discharge onto the county highway.

In the interests of highway safety and to accord with Planning Policy Wales (10th Edition, 2018), Technical Advice Note 18-Transport (2007) and Local Development Plan policy T1 (2018)

Severn Trent Water

E mail of the 1st March 2018

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.

Environmental Health

E mail of the 8th March 2018

Foul drainage

I assume that the foul drainage from the changing/shower block will be to the mains sewer. If so, I have no objection.

The plan also shows a row of portaloos but I can't see any further information. Can the applicant/agent confirm the foul drainage arrangement for these facilities please?

Countryside Services

Letter of the 5th March 2018

I can confirm that a public footpath N27A runs along the proposed access track. Advice will need to be sought on the surfacing of the public footpath.

Whilst the footpath may not be directly affected by the main development but could be affected by associated development.

It is strongly recommended that the applicant checks their proposals against the Definitive Map, which is the legal record of the location and status of public rights of way.

For public rights of way advice please visit our web page:
<http://www.powys.gov.uk/en/countryside-outdoors/footpaths-bridleways-and-other-public-rights-of-way/>

In the event of a successful planning permission please include a note advising that:

- Development over, or illegal interference with, a public right of way, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way. This includes temporary obstructions such as rubble mounds, building materials, parked vehicles etc...
- Landscaping & Surfacing - Advice will need to be sought before interfering or surfacing a public right of way.
- New fencing or boundaries – The developer will need to seek a licence for a new structure if intending to create a boundary across a public footpath or bridleway. We cannot authorise a structure across a Restricted Byway or Byway Open to All Traffic.
- Temporary closures – The developer can seek a temporary closure of a public right of way from the council if they feel the public may be at risk during development.
- Legal Diversion – The developer will need to seek advice and apply for a legal diversion from the Council. No development can take place on a public right of way until a legal order is confirmed and the process may take at least 6 months. For more information please discuss with Countryside Services at the earliest available opportunity.

PCC Ecologist

E mail of 7th August 2018

Thank you for consulting me with regards to planning application P/2018/0237 which concerns an application for construction of access track and parking spaces to serve river activities access at Land adjoining Glandwr Heol, Vaynor, Newtown, Powys.

I have reviewed the proposed plans and supporting information submitted with the application as well as aerial photographs of the site and surrounding habitats and local records of protected and priority species and designated sites within 500m of the proposed development.

Species recorded in the local area include otter, Atlantic salmon, kingfisher, white-clawed crayfish. Observations of otter commuting along the River Severn in close proximity to the proposed development and non-native invasive species are known to be present along the watercourse including Himalayan balsam, Japanese knotweed and American signal crayfish.

No statutory or non-statutory designated sites are present within 500m of the proposed development.

No ecological information has been submitted with the proposed development

I note that the proposed works will in the main be impacting an area of amenity grassland which is considered to be of low ecological value. However, given the proximity and the nature of the works to the riparian habitat it is considered that further information is required to enable the LPA to assess the potential impacts of the proposed development to biodiversity. Riparian habitats are features of high ecological value and support a wide variety of protected and priority species.

It is therefore considered that a Preliminary Ecological Appraisal including a background data search from the Powys and Brecon Beacons National Park Biodiversity Information Service (BIS) will need to be undertaken to identify the habitats present on and adjacent to the site and potential to support protected species as well as the presence of invasive non-native species.

It is important to note that further surveys following National guidelines at the appropriate time of year will be required for any species that are found or have potential to be present. These surveys will need to be carried out and results and any mitigation measures proposed submitted to the LPA prior to determination of the planning application. Mitigation and compensation strategies will be required for any impacts upon protected species and loss of habitat.

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).

The applicant should be mindful that in accordance with Powys County Council's duty under Part 1 Section 6 of the Environment (Wales) Act 2016, TAN 5, UDP policies and

biodiversity IDCG, as part of the planning process Powys should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.

Pollution Prevention Plan

Details of Pollution Prevention measures that will be implemented during the construction of the access features will need to be submitted to demonstrate that the proposed development would not result in negative impacts to the river Severn through pollution impacts. Details of current guidelines regarding pollution prevention can be found at <http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/> . Details of pollution prevention measures are required to demonstrate that the proposed development would comply with the Water Framework Directive Regulations.

Invasive non-native species

Invasive non-native species are known to be present along and within a number of watercourses within Powys, if INNS are found to be present within the proposed development areas then an appropriate INNS management plan will need to be identified to demonstrate how these species will be managed during the construction phase of the proposed development and to demonstrate actions that would be taken to ensure the use of the access features would not result in the spread of any INNS.

External Lighting

Careful consideration will need to be given to any external lighting of the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area or woodland. This information could be secured through a planning condition, however the submission of a Wildlife Sensitive Lighting Plan with a planning application would avoid the need for a pre-commencement condition requiring this information.

Therefore, it is considered that the application currently lacks sufficient information to enable the LPA to determine the potential for the proposed development to impact biodiversity and to demonstrate that the development complies with relevant National and Local planning policies and associated legislation, further information as identified above is required to be submitted to inform this assessment. Biodiversity is a material consideration in the planning process and this information is therefore required prior to determination of the application.

Natural Resource Wales

Letter of the 20th March 2018

We recommend that you should only grant planning permission if the scheme can meet the following requirements and you attach the conditions listed below. These would

address significant concerns that we have identified. Therefore, we would not object provided the requirements are met and you attach the conditions to the planning permission.

Summary of Requirements and Conditions

Requirement 1 – Flood risk: The submission of additional construction details for the proposed canoe access point to establish the acceptability of the proposal.

Condition 1 – Biosecurity: the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA

Condition 2 – PPP: The submission and implementation of a Waste Management Plan and a Pollution Prevention Plan for all operations likely to have an impact on the water quality of the River Severn.

Flood Risk

All built development is categorized as less vulnerable and is on the edge of the theoretical flood plain of the River Severn.

The applicant is advised to source flood level information for this reach of the River Severn from the Data Distribution team <http://naturalresourceswales.gov.uk/evidence-and-data/access-our-data/?lang=en>.

Football changing rooms will be brick built but using the above sourced data, all electrical and vulnerable aspects of the development should be set a nominal distance above flood levels.

The proposed polytunnel and garden sheds should be well secured to avoid being affected by overland flood flows.

There should be no ground raising as a result of the proposed access track and car parking areas, in order to avoid impact on flood flow routes.

We would resist any further additional built development as a result of the proposed allotment development.

Any further sheds or fencing or other structures could be affected by flood flows and potentially cause blockage or damage downstream.

The proposed infrastructure will allow for appropriate land use, football, communal gardening, access for river use but any further intensification of built development should be resisted in order to minimise impact and avoid an undesirable precedent for development in floodplain. We advise that any Permitted Development rights which may allow for further intensification of sheds, should be considered for removal.

With regards to the proposed canoe access along this reach we are aware that this facility is being designed. Although NRW, acknowledges the principle of the structure, details will be required to establish the acceptability of the design at the proposed location.

This requirement will also inform any comments we may want to make in relation to potential impacts on protected species.

Requirement 1 – Flood risk: The submission of additional construction details for the proposed canoe access point to establish the acceptability of the proposal.

We reiterate that all of the proposed canoe access structures through Newtown will also require a separate Flood Risk Activity Permit, primarily to approve the temporary works construction method statements.

Biosecurity

We consider biosecurity to be a material consideration owing to the nature and location of the proposal. In this case, biosecurity issues concern invasive non native species (INNS) and diseases. We therefore advise that any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

We consider that this assessment must include

- (i) appropriate measures to control any INNS on site, if present; and
- (ii) measures or actions that aim to prevent INNS being introduced to /allowed to disperse from the site for the duration of construction and operational phases of the scheme.

Condition 1 – Biosecurity: the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA

Protected Species

NRW has not considered European Protected Species(EPS) because the application does not appear to include an EPS report. Please consult NRW again if an EPS report identifies the presence of EPS.

We have records of bat and otter using the river corridor in this area and we note the proposed works will involve changes to the river bank and its vegetation. We advise that a Reasonable Avoidance Measures scheme (RAMS) for the species listed above should be secured via appropriate conditions. We would expect to see no additional fixed lighting in proximity of the top river bank to avoid disturbance to otters and bats.

Pollution Prevention

Due to the proximity of some of the proposed works to the river, NRW is concerned that the proposal has the potential to lead to suspended solids entering the River Severn.

A Pollution Prevention Plan will be required together with a Waste Management Plan to demonstrate there will be no impact on water quality.

Condition 2 – PPP: The submission and implementation of a Waste Management Plan and a Pollution Prevention Plan for all operations likely to have an impact on the water quality of the River Severn.

All works proposed along the river bank must be carried out in accordance with GPP5 'Works in, near or over watercourses' which is available at:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

No material should be deposited within 10m of the river without discussion with Natural Resources Wales.

Any waste material stored, used or disposed of must be done so in accordance with the Duty of Care Regulations and may require a permit or exemption under the Environmental Permitting Regulations 2010.

Foul Drainage

Government policy states that, where practicable, foul drainage should be discharged to the mains sewer. Where this is not possible and private sewage treatment / disposal facilities are utilised, they must be installed and maintained in accordance with British Standard 6297 and Approved Document H of the Building Regulations 2000. You should also have regard to Welsh Office Circular 10/99 in respect of planning requirements for non mains sewerage.

The applicant will need to apply for a Permit or Exemption, if they wish to discharge anything apart from uncontaminated surface water to a watercourse/ditch. They may also need to apply for a Permit from our National Permitting Team to allow certain discharges into ground. They must obtain any necessary Permit prior to works starting on site. The Welsh Government has also advised that all septic tanks and small sewage treatment plant discharges in Wales will need to be registered. More information, including a step by step guide to registering, is available on our website <https://naturalresources.wales/permits-and-permissions/water-discharges/?lang=en>

Scope of NRW Comments

Our comments above only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website: (<https://naturalresources.wales/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their

responsibility to ensure that they secure all other permits/consents relevant to their development

E mail of the 16th June 2018

Thank you for consulting us on the amended plans for the above. We note that the proposal no longer includes the erection of changing rooms, portaloos, polytunnels, Communal sheds.

We would appreciate if you could confirm that the features listed above are no longer included within the proposal.

NRW has no additional comments to make at this stage, our requirements and recommendations as referred to in our letter of 20/03/2018 (CAS-56995-X6T9) are still relevant.

Requirement 1 is still outstanding as no construction details of the canoe access point into the river have been provided at this stage.

We will be revise our comments upon receipt of detailed plans as per requirement 1 above.

Other Responses

Ramblers Association

We have previously commented on this application and asked for further clarification on several issues. Unfortunately the additional information provided does not provide any further clarification and so are initial comments still stand as below:

“Powys Ramblers are very much in support of the Going Green project of which this application is a part. However, there is a public footpath leading to the Severn along the line of the proposed new access track. We could not spot any mention of this in the plans or documentation, nor of arrangements for a pedestrian route or signing at the end of the track where there would be car parks. The scheme would be very unlikely to cause any obstruction once built, and better public access to the river is part of the overall project. Even so, the ROW should be explicitly mentioned on the block plan and in the supporting document. Can the applicant be required to do this please.

In the event of permission being granted can the applicant please be advised of the importance of keeping the footpath free from obstruction during development works and making sure it is kept open throughout.”

Public response

A site notice was erected at the entrance to the site off the estate road, no decision was made for a continuous period of 21 days.

The scheme was amended at the planning agent's request on the 13th June 2018 and a re-consultation exercise was carried out.

A total of 108 signed copies of an objection statement have been received, the statement raises objection to the proposed development on the following grounds:

- Loss of public open space
- Additional traffic on the busy estate road
- Increased flood risk
-

5 individually written letters of objection have been received, these raise objection on the following grounds:

- Flooding, it is highlighted that this area floods regularly and photographs have been provided showing the area under water. Concern is raised the introduction of hard standing areas will exacerbate flooding.
- Loss of open space; it is highlighted that there is very little open space remaining on the Vaynor development and this area is used regularly for play and dog walking.
- Impact on the highway; it is highlighted the estate road is very busy and there is a lot of on street parking, concern is raised regarding use of the highway for additional site traffic

Planning History

P/2018/0316: Creation of 4 no. river access points to allow accessible use by canoeists.
Pending

P/2017/1274: Proposed Green Infrastructure Project to include Site A - Change of use of land to form a play park / amenity area and erection of play equipment; Site B - Construction of a BMX pump track; Site C - Erection of hub building & formation of storage compound, formation of car park, new entrance and all associated works. Consented

Principal Planning Policies

National Planning Policy

Planning Policy Wales (10th Edition, 2018)

Technical Advice Note 5, Nature Conservation and Planning (2009)

Technical Advice Note 12: Design (2016)

Technical Advice Notes 15 - Development and Flood Risk (2004)

Technical Advice Note 16: Sport, Recreation and Open Space (2009)

Technical Advice Note 24: The Historic Environment (2017)

Local Planning Policy-Local Development Plan (2018)

SP7-Safeguarding of strategic Resources and Assets

DM2-Natural Environment

DM3-Public Open Space

DM4-Landscape

DM5-Development and Flood Risk

DM6-Flood Prevention Measures and Land Drainage

T1-Travel, Traffic and Transport Infrastructure

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note LDP=Powys Local Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

Other Legislative Considerations

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

Officer Appraisal

Principle of Development

Policy DM3 concerns development proposals within public open space, the proposed development concerns an area of informal recreation ground and as such this policy is relevant.

While this development proposes recreational facilities they would affect an informal recreation area to the east of Hoel Vaynor. The policy includes a set of criteria that seeks to ensure public space is only lost where there is adequate reuse and alternative uses for the spaces have been explored.

The site comprises a single width access route from the existing access off Heol Vaynor and onto the recreation ground. The proposal would result in a small part of the informal playing field being surfaced with hard core to facilitate vehicle access. The proposed changes to the area are considered minimal and are likely to continue to support general recreational use of the field, while also opening up the riverine environment for recreation.

It is considered the proposed scheme would enhance the recreational potential on these areas of open space and the riverine environment and as such is considered acceptable.

Development in a flood risk area

The sites are within the river Severn C2 floodzone as defined by the TAN15 Development Advice Flood Maps (DAMs). Public representations raise concern regarding flooding on this site.

The scheme submitted under application P/2018/0316 includes details of the apparatus to be constructed on the river bank, NRW have responded under the relevant application to confirm they are satisfied with the apparatus in terms of flood risk. The response from NRW is noted, however requirement 1 is not considered relevant to this application and as such not further information has been sought.

The proposal would result in a small area of hardcore on the existing maintained grass area. It is proposed to surface the access with hardcore, this surface treatment would remain free draining and would occupy a small part of the overall surrounding recreational area.

The scale and nature of the proposed development would continue to support general recreational use and as such the proposal is considered to accord with the policy criteria set out under LDP policy DM3. It is not considered that the proposed scheme comprises highly vulnerable development as defined by TAN15 and it is not considered that the scale and type of development would exacerbate on site or off site flooding above that which exists.

Landscape and visual assessment

The proposal is limited to the hardcore surfacing of a circular access route on existing recreation ground. The construction materials are in keeping with the natural appearance of the area and would further integrate into its surroundings over time. The scheme does not propose any features which extend above ground level.

Policy DM4 seeks to protect valued landscape characteristics and qualities from development which would have an unacceptable adverse effect. The proposed scheme would not alter the character of the landscape and would not be visible from any visually sensitive sites, as such the scheme is in accordance with policy DM4.

Neighbour amenity

Site 1 is close to houses on the Vaynor residential development, a number of third party responses raise concerns in terms of amenity of the neighbouring property. A number of the third party responses were received prior to the amended description of development. The proposed use of the existing access to pick up canoes is unlikely to reduce neighbour amenity through disturbance. The site is accessed directly off Hoel Vaynor and access to the site is in relation to a specific activity. The proposed scheme is considered unlikely to have an unacceptable adverse impact on neighbour amenity.

Ecological impact

It is important to be mindful of how a development proposal would impact directly and indirectly on biodiversity and in particular those species identified as being at risk under the Habitats Regulations (HR). In accordance with HR, policy DM2 seeks to protect

biodiversity from development which would have an unacceptable impact on the favourable conservation status of protected species.

The site does not directly impact on the riverine environment or river banks and as detailed by the ecologist the site is of low ecological value. The ecologist's response was received prior to the amended description of development and the submission of an ecological report for the 4 canoe access sites under application P/2018/0318.

Based on the updated development and report, it is considered that reasonable avoidance measures for otter together with requirements for a pollution prevention plan and biosecurity risk assessment as specified by NRW in their response, is sufficient to ensure the favourable conservation status of protected species in the area would not be unacceptably affected. These requirements would be secured via condition of any forthcoming consent.

The proposed scheme is considered to be in accordance with LDP policy DM2, subject to the conditions of any forthcoming consent.

Impact on the highway infrastructure

In accordance with policy T1 all development proposals are assessed in relation to their potential to generate traffic, suitable parking provision and a safe means are access. These elements are key to determining whether or not development would be acceptable in terms of highway safety.

A number of public responses received raised concern regarding the potential increased traffic along Heol Vaynor and exacerbation of existing issues with on street parking. The Highway Authority also raised concern regarding the vehicular use and intensification of the existing access.

An updated plan was received on the 18th December 2018 detailing works to the existing access in order to facilitate vehicle access. The Highway Authority confirmed on the 21st December 2018 they are satisfied with updated plan.

The applicant's agent confirmed the existing gated access is used on an irregular and informal basis. They confirmed the movements associated with the proposed scheme would be limited to a minibus and trailer in association with canoe river access. Any further vehicle access restriction on the gate is a private matter and would need to be handled by the site operators.

Public rights of way

Countryside services confirm within their response that a public right of way crosses the area proposed to be surfaced. While no objection to the proposal is raised, it is noted that the public right of way should remain free from obstruction. An informative of any

forthcoming consent shall include details of the ongoing maintenance of the public right of way route.

Recommendation to Members

The proposed development is in accordance with the relevant national and local planning policies, as listed within this report, and as such it is recommended conditional consent is issued, together with the attached conditions.

Conditions

- 1 The development shall begin not later than five years from the date of this decision
- 2 The development hereby approved shall be carried out strictly in accordance with the approved plans. The approved plan references include Location Plan S061.1.3.100, Proposed Site Plan S061.1.3.101 Rev E, Proposed Plan S061.1.3.100 Rev B
- 3 Prior to commencement of the development a detailed Biosecurity Risk Assessment with regards to Invasive Non-native species shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details.
- 4 Prior to commencement of the development a detailed Otter Reasonable Avoidance Method Statement shall be submitted to and approved in writing by the Local Planning Authority, works shall be carried out in accordance with the approved statement.
- 5 Prior to commencement of development a pollution prevention plan shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved scheme.
- 6 Prior to the erection of any external lighting, a lighting scheme shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved scheme.
- 7 Prior to the first beneficial use of the development any entrance gates shall be set back at least 15 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.
- 8 The centre line of the first 15 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.
- 9 Prior to the commencement of any other 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 15 metres from the edge of the adjoining carriageway. This area shall be maintained to this standard for as long as the development remains in existence

10 No surface water drainage from the site shall be allowed to discharge onto the county highway.

Reasons

- 1 Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
- 2 To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
- 3 In the interests of biodiversity and to accord with Planning Policy Wales (10th Edition, 2018), Technical Advice Note 5-Nature Conservation and Planning (2009) and Local Development Plan policy DM2 (2018)
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- 7 In the interests of highway safety and to accord with Planning Policy Wales (10th Edition, 2018), Technical Advice Note 18-Transport (2007) and Local Development Plan policy T1 (2018)
- 8 In the interests of highway safety and to accord with Planning Policy Wales (10th Edition, 2018), Technical Advice Note 18-Transport (2007) and Local Development Plan policy T1 (2018)
- 9 In the interests of highway safety and to accord with Planning Policy Wales (10th Edition, 2018), Technical Advice Note 18-Transport (2007) and Local Development Plan policy T1 (2018)
- 10 In the interests of highway safety and to accord with Planning Policy Wales (10th Edition, 2018), Technical Advice Note 18-Transport (2007) and Local Development Plan policy T1 (2018)

Informative Notes

- 1 In the event of a successful planning permission please include a note advising that:
 - o Development over, or illegal interference with, a public right of way, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way. This includes temporary obstructions such as rubble mounds, building materials, parked vehicles etc...
 - o Landscaping & Surfacing - .Advice will need to be sought before interfering or surfacing a public right of way.
 - o New fencing or boundaries - The developer will need to seek a licence for a new structure if intending to create a boundary across a public footpath or bridleway. We cannot authorise a structure across a Restricted Byway or Byway Open to All

Traffic.

- o Temporary closures - The developer can to seek a temporary closure of a public right of way from the council if they feel the public may be at risk during development.
- o Legal Diversion - The developer will need to seek advice and apply for a legal diversion from the Council. No development can take place on a public right of way until a legal order is confirmed and the process may take at least 6 months. For more information please discuss with Countryside Services at the earliest available opportunity.

2 Ecology

1 Protected Species

Work should halt immediately and Natural Resources Wales (NRW) contacted for advice in the event that protected species are discovered during the course of the development. To proceed without seeking the advice of NRW may result in an offence under the Conservation of Habitats and Species Regulations 2017 and/or the Wildlife & Countryside Act 1981 (as amended) being committed. NRW can be contacted at: Tel: 0300 065 3000

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

It is an offence for any person to:

- o Intentionally kill, injure or take any bats.
- o 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:

- o 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 2017 that works to trees or structures 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 species of reptiles known to occur within Powys, namely the common lizard, slow-worm, grass snake and adder, are protected under the Wildlife and Countryside Act 1981 (as amended).

It is therefore an offence to:

- Intentionally kill or injure these species of reptiles,
- Trade (live or dead animals) i.e. sale, barter, exchange, transporting for sale and advertising to sell or to buy.

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

In addition these species of reptiles are also listed in Part 1 Section 7 of the Environment (Wales) Act 2016 - which is a list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales. Species of reptiles known to occur in Powys are also listed as Species of Conservation Concern on the Powys LBAP.

If reptiles are discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and/or the Council's Ecologist.

Otters - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2017

It is therefore an offence to:

- Deliberately capture, injure or kill an otter;
- Deliberately disturb an otter in such a way as to be likely to significantly affect the local distribution or abundance of otters or the ability of any significant group of otters to survive, breed, rear or nurture their young;

Damage or destroy an otter holt;
Intentionally or recklessly disturb any otter whilst it is occupying a holt; or
Intentionally or recklessly obstruct access to a holt.

Reasonable avoidance measures need to be implemented to ensure minimal impact to
otter activity in the local area. These will include:

No night working or lighting of the works area;
Ensuring that no barriers to movement of otters along the river are created;
Keep unnecessary noise to a minimum during the works; and
Do not light any fires close to areas of vegetation.

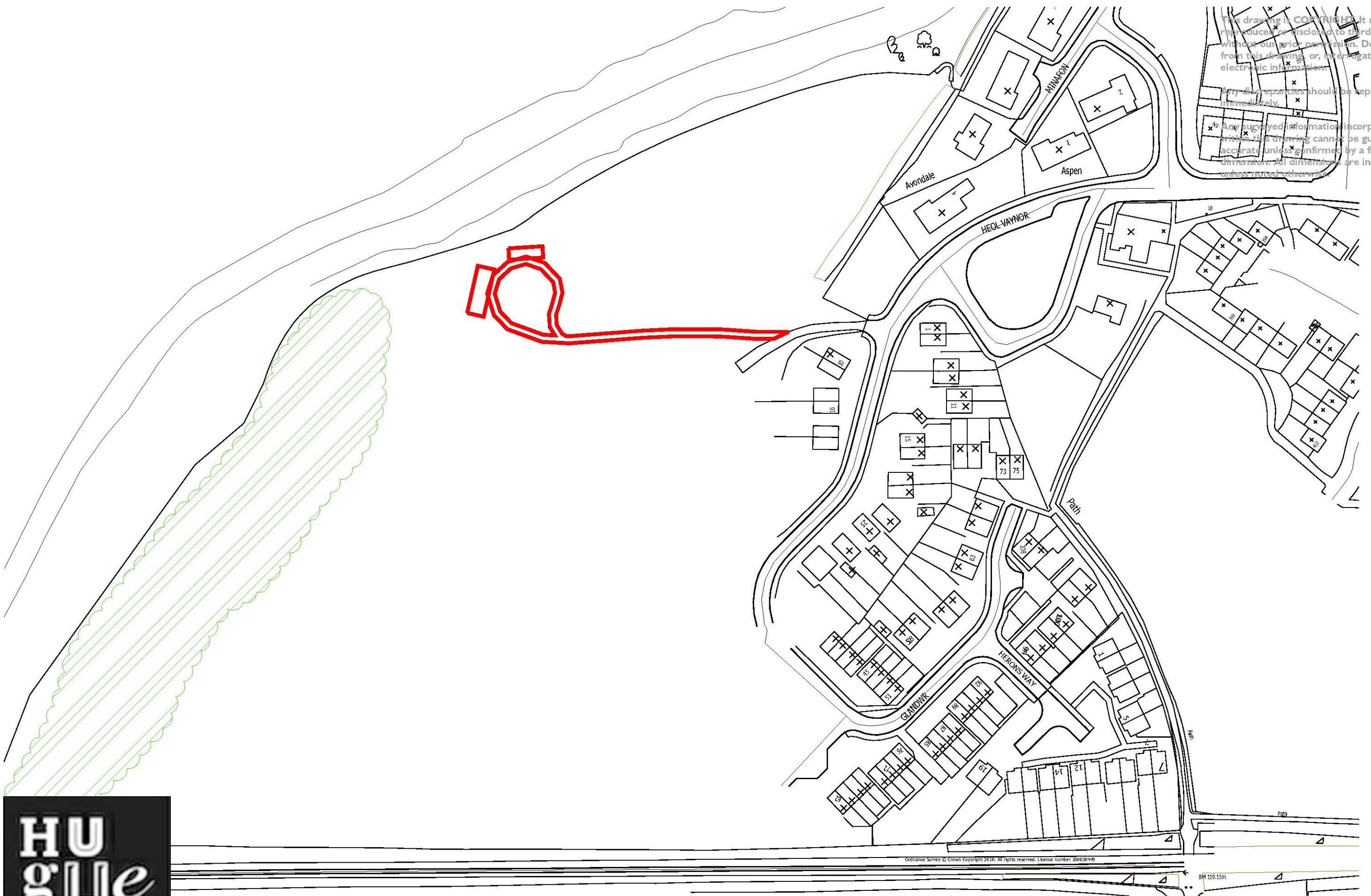
Case Officer: Dunya Fourie, Planning Officer
Tel: 01597 827111 E-mail: dunya.fourie@powys.gov.uk

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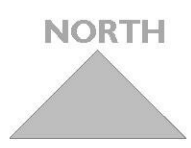


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BH 119.15m



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Application Site Boundary

Rev A - Revisions to red line - 28-02-18 - SG
Rev B - Revisions to red line - 27-04-18 - RL
Rev C - Revisions to red line - 08-05-18 - RL

| | |
|---|--|
| Project :- Allotments on land adjacent at Heol Vaynor, Newtown. | |
| Drawing Status :- PLANNING | Drawing Title :- Location Plan |
| Scale :- 1:1250@A3 | Date :- 01.12.17 |
| Drawn by :- RL | Checked :- |
| Drawing No :- S061.1.3.100 | Rev C |

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4.3

Planning, Taxi Licensing and Rights of Way Committee Report

| | | | |
|----------------------------|--------------------------------------|--------------------|------------------------|
| Application Number: | P/2018/0316 | Grid Ref: | E: 308821 N: 290906 |
| Community Council: | Newtown And Llanllwchaiarn Community | Valid Date: | 09.03.2018 |

Applicant: Mr Stuart Owen

Location: 4 Sites On River Severn, Newtown, Powys.

Proposal: Full: Creation of 4 no. river access points to allow accessible use by canoeists

Application Type: Full application

The reason for Committee determination

Part of the land subject to this application is under Powys County Council ownership

Site Location and Description

The application concerns three sites on the banks of the river Severn through Newtown, the specific location of each site is as follows:

- Site 1; access point Vaynor sports field and amenity space
- Site 2; access/egress upstream of rapid, back lane car park
- Site 2a; access/egress downstream of rapid, back lane car park
- Site 3; egress, gravel lane car park

This application seeks full planning consent for works to the river bank to construct wooden steps and canoe runners. The construction of the steps includes compacted crushed stone sub base with concrete base, timber steps, handrail and runners and small section of new gravel path to join to the existing pathway.

Consultee Response

Newtown & Llanllwchaiarn Community Council

Letter of 11th April 2018

The Town Council supports the application.

PCC- Highways

Letter of 12th April 2018

The County Council as Highway Authority for the County Unclassified Highway, 4228

Wish the following recommendations/Observations be applied
Recommendations/Observations

It is noted that the access and parking required for 'access point one' are reliant upon a separate application P/2018/0237 and that no access details have been submitted for the current application.

The Highway Authority have concern that the current access track (for the use of pedestrians and grass cutting equipment), is unsuitable in its current state for vehicular traffic. The gradient, width, alignment and surfacing of the track are unsuitable for the vehicle types that are likely to use it.

Should the applicant wish to submit a suitably scaled plan showing the, width and gradient of the access for the first 15 metres, means of draining the access and surfacing detail, we shall certainly consider any such submission. We also require the applicant to submit a breakdown of the proposed movements from the site for all vehicles types. Furthermore, the access and visibility splays need to be included within the red line application site boundary.

Wales and West Utilities

E mail of the 20th March 2018

Our records show those pipes owned by Wales & West Utilities (WWU) in its role as a Licensed Gas Transporter (GT). Service pipes, valves, syphons, stub connections, etc. may not be shown but their presence should be anticipated. No warranties are therefore given in respect of it.

They also provide indications of gas pipes owned by other GTs, or otherwise privately owned, which may be present in this area. This information is not information of WWU and WWU is unable to verify this information or to confirm whether it is accurate or complete.

The plan must be printed in A3 size and will also need to be produced in colour. If this is not possible, we can send you a hard copy if requested. Let me know if you require any further assistance.

Severn Trent

E mail of the 23rd March 2018

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

E mail of the 23rd March 2018

Environmental Protection has no objection to the above application.

PCC – Ecologist

E mail of 22nd March 2018

Thank you for consulting me with regards to planning application P/2018/0316 which concerns an application for the Creation of 4 no. river access points to allow accessible use by canoeists at 4 sites along River Severn, Newtown, Powys.

I have reviewed the proposed plans and supporting information submitted with the application as well as aerial photographs of the site and surrounding habitats and local records of protected and priority species and designated sites within 500m of the proposed development.

Species recorded in the local area include otter, Atlantic salmon, kingfisher, white-clawed crayfish. Colleagues have recently observed otter commuting along the River Severn in close proximity to the proposed development and non-native invasive species are known to be present along the watercourse including Himalayan balsam, Japanese knotweed and American signal crayfish.

No statutory or non-statutory designated sites are present within 500m of the proposed development.

No ecological information has been submitted with the proposed development, the D&S makes reference to consultation with NRW during the design process but no details of this correspondence has been provided with the application.

Riparian habitats are features of high ecological value and support a wide variety of protected and priority species. It is considered that further information is required to enable the LPA to assess the potential impacts of the proposed development to biodiversity.

It is therefore considered that a Preliminary Ecological Appraisal including a background data search from the Powys and Brecon Beacons National Park Biodiversity Information Service (BIS) will need to be undertaken to identify the habitats present on and adjacent

to the site and potential to support protected species as well as the presence of invasive non-native species.

It is important to note that further surveys following National guidelines at the appropriate time of year will be required for any species that are found or have potential to be present. These surveys will need to be carried out and results and any mitigation measures proposed submitted to the LPA prior to determination of the planning application. Mitigation and compensation strategies will be required for any impacts upon protected species and loss of habitat.

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).

The applicant should be mindful that in accordance with Powys County Council's duty under Part 1 Section 6 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity IDCG, as part of the planning process Powys should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.

Details of Pollution Prevention measures that will be implemented during the construction of the access features will need to be submitted to demonstrate that the proposed development would not result in negative impacts to the river Severn through pollution impacts. Details of current guidelines regarding pollution prevention can be found at <http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/> . Details of pollution prevention measures are required to demonstrate that the proposed development would comply with the Water Framework Directive Regulations.

Invasive non-native species are known to be present along and within a number of watercourses within Powys, if INNS are found to be present within the proposed development areas then an appropriate INNS management plan will need to be identified to demonstrate how these species will be managed during the construction phase of the proposed development and to demonstrate actions that would be taken to ensure the use of the access features would not result in the spread of any INNS.

Therefore it is considered that the application currently lacks sufficient information to enable the LPA to determine the potential for the proposed development to impact biodiversity and to demonstrate that the development complies with relevant National and Local planning policies and associated legislation, further information as identified above is required to be submitted to inform this assessment. Biodiversity is a material consideration in the planning process and this information is therefore required prior to determination of the application.

E mail of 22nd September 2018

Thank you for consulting me with regards to the additional information submitted with regards to planning application P/2018/0316 which concerns an application for the Creation of 4 no. river access points to allow accessible use by canoeists at 4 sites along River Severn, Newtown, Powys.

The additional information has been submitted to address concerns raised in my previous consultation response (dated 22nd March 2018) with regards to this application. The additional information submitted is an Ecological Appraisal Report produced by Marches Ecology dated 9th August 2018.

I have reviewed the report and consider that the survey effort employed to inform the assessment of potential ecological constraints and identify any required mitigation measures was in accordance with current survey guidelines. The ecological appraisal comprises an ecological desktop study and an Extended Phase 1 Habitat Survey which was conducted on the 5th July 2018. The extended phase 1 habitat survey focussed on land within each of the 4 sites of the application and an approximate 30m buffer.

The habitat survey identified that the sites of the proposed access points comprise a mixture of broadleaved woodland, amenity grassland, hardstanding/bare-ground and riverbank. The habitat resources at all 4 sites was deemed to be of local value. The proposals will result in minor impacts/habitat loss at each site and it has been concluded that the loss of these small areas of habitat will not result in significant impacts to biodiversity at the site or in the wider environment, recommendations have been made to ensure protection of adjacent/retained habitats.

No impacts were identified to badger, bats or water vole. Low potential for otter, reptile and nesting birds to be impacted by the proposed development, given the evidence found during the surveys and level of disturbance experienced by the sites currently it is considered that the risk of impact to these species is low. Precautionary measures have been identified with regards to nesting birds and reptiles and it has been identified that a stand- alone Otter Method Statement outlining a non-licensed RAMs scheme should be prepared.

Four species of non-native invasive species were recorded during the survey, it has been identified within the report that a stand-alone Biosecurity Method Statement is prepared and implemented to prevent the spread of INNS currently present at the site and to avoid the introduction of other INNS to the sites.

Having reviewed the results of the surveys and taking into account the recommendations with regards to avoidance/mitigation measures it is considered that subject to appropriate conditions being included to secure adherence to the identified measures there would be no risk of loss or negative impacts to biodiversity as a result of the proposed development.

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

Prior to commencement of the development a detailed Otter Reasonable Avoidance Method Statement shall be submitted for approval to the Local Planning Authority and implemented as approved.

Reason: To comply with Powys County Council's LDP Policies DM2 in relation to the Natural Environment and DM4 in relation to ecological qualities of the landscape and 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 the development a detailed Biosecurity Method Statement with regards to Invasive Non-native species shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details.

Reason: To comply with Powys County Council's LDP Policies DM2 in relation to the Natural Environment and DM4 in relation to ecological qualities of the landscape and 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

The development shall be carried out strictly in accordance with the recommendations regarding avoidance/mitigation/enhancement identified in the Ecological Appraisal Report produced by Marches Ecology dated 9th August 2018. The identified measures shall be adhered to and implemented in full and maintained thereafter.

Reason: To comply with Powys County Council's LDP Policy DM2, 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 informatives:

Protected Species

Work should halt immediately and Natural Resources Wales (NRW) contacted for advice in the event that protected species are discovered during the course of the development. To proceed without seeking the advice of NRW may result in an offence under the Conservation of Habitats and Species Regulations 2017 and/or the Wildlife & Countryside Act 1981 (as amended) being committed. NRW can be contacted at: Tel: 0300 065 3000

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

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 2017 that works to trees or structures 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 species of reptiles known to occur within Powys, namely the common lizard, slow-worm, grass snake and adder, are protected under the Wildlife and Countryside Act 1981 (as amended).

It is therefore an offence to:

- Intentionally kill or injure these species of reptiles,
- Trade (live or dead animals) i.e. sale, barter, exchange, transporting for sale and advertising to sell or to buy.

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

In addition, these species of reptiles are also listed in Part 1 Section 7 of the Environment (Wales) Act 2016 – which is a list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales. Species of reptiles known to occur in Powys are also listed as Species of Conservation Concern on the Powys LBAP.

If reptiles are discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and/or the Council's Ecologist.

Otters – Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2017

It is therefore an offence to:

- Deliberately capture, injure or kill an otter;
- Deliberately disturb an otter in such a way as to be likely to significantly affect the local distribution or abundance of otters or the ability of any significant group of otters to survive, breed, rear or nurture their young;
- Damage or destroy an otter holt;
- Intentionally or recklessly disturb any otter whilst it is occupying a holt; or
- Intentionally or recklessly obstruct access to a holt.

Reasonable avoidance measures need to be implemented to ensure minimal impact to otter activity in the local area. These will include:

- No night working or lighting of the works area;
- Ensuring that no barriers to movement of otters along the river are created;
- Keep unnecessary noise to a minimum during the works; and
- Do not light any fires close to areas of vegetation.

Natural Resources Wales

E mail of the 27th April 2018

I also note that you have already requested a preliminary ecological assessment following Rachel's recommendations. I can confirm that I have read the response Rachel sent you and I am in agreement with the recommendations.

We will be happy to finalise comments on all relevant matters associated to this application upon receipt of a copy of the ecological assessment report. If you require an official letter at this stage, please let me know and I will try to send you a response as soon as possible.

Letter of 12th July 2018

Thank you for consulting Natural Resources Wales (letter dated 19/03/2018) regarding the above.

NRW does not object to the proposal. In our opinion, as explained below, the proposal is not likely to adversely affect any of the interests listed, subject to submission of further information and use of appropriate conditions.

NRW is fully supportive of the delivery of Sustainable Management of Natural Resources [SMNR] in Newtown, Powys. With partnership organisations, Natural Resources Wales has been working closely with the community on a project to promote opportunities for water recreation on the Afon Hafren / River Severn in Newtown and to encourage complementary habitat creation and enhancement associated with recreational access. Habitat improvements may include woodland creation, woodland enhancement, control of invasive non-native species [INNS], protection of the native Black Poplar, sympathetic planting for wildlife, and the creation of otter holts and hold up areas.

Summary of Requirements and Conditions

Requirement 1 – PPP: The submission and implementation of a Pollution Prevention Plan.

Condition 1 – INNS: The submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

Flood Risk

We consider the principle of the four access structures to be acceptable in flood risk terms.

More information is available in the 'Advice for the developer' section below.

Pollution Prevention

Appropriate pollution prevention measures need to be implemented to ensure the river is not impacted by the development. All works at the site must be carried out in accordance with GPP5 'Works in, near or over watercourses' which is available at:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-qpps-full-list/>

Appropriate pollution prevention measures should be secured within a Pollution Prevention Plan to be approved by your authority and adhered to.

Requirement 1 – PPP: The submission and implementation of a Pollution Prevention Plan.

Biosecurity

We consider biosecurity to be a material consideration owing to the nature and location of the proposal. In this case, biosecurity issues concern invasive non native species (INNS) and diseases. We therefore advise that any consent includes the imposition of **Condition 1 – INNS**: requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

We consider that this assessment must include

- (i) appropriate measures to control any INNS on site if present; and
- (ii) measures or actions that aim to prevent INNS being introduced to /allowed to disperse from the site for the duration of construction and operational phases of the scheme.

Protected Species

NRW has not considered European Protected Species(EPS) because the application does not appear to include an EPS report. We are aware an ecological report has been requested by your ecologist and we would be happy to make additional comments if the report identifies the presence of EPS.

Advice for the developer:

Flood Risk

The Environmental Permitting (England and Wales) (Amendment) (No.2) Regulations 2016 require you to apply for a Flood Risk Activity Permit (FRAP) for works in, over, under or adjacent to main rivers.

Depending upon the type, where and when you wish to undertake a flood risk activity, you may not need to apply for a Flood Risk Activity Permit. If your proposed activity meets certain

Advice for the developer:

Flood Risk

The Environmental Permitting (England and Wales) (Amendment) (No.2) Regulations 2016 require you to apply for a Flood Risk Activity Permit (FRAP) for works in, over, under or adjacent to main rivers.

Depending upon the type, where and when you wish to undertake a flood risk activity, you may not need to apply for a Flood Risk Activity Permit. If your proposed activity meets certain

Letter of 13th September 2018

Thank you for consulting Natural Resources Wales (letter dated 06/09/2018) regarding additional information on the above.

In our previous response NRW did not object to the proposal but advised that additional information was required by your authority to determine the application. We therefore advised that the applicant should:

Requirement 1 – PPP: The submission and implementation of a Pollution Prevention Plan.

Condition 1 – INNS: The submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

We have read the Ecological Appraisal dated 09/08/2018 by Max Ellson and we are now of the opinion that the proposal is not likely to adversely affect any of the interests listed, subject to the use of appropriate conditions.

Summary of Conditions

Condition 1 – Protected Species: Prior to commencement of works a method statement detailing reasonable avoidance measures and works required to avoid disturbance to protected species shall be submitted to the satisfaction of the Local Authority. The method statement will be informed by the findings of a pre-construction survey in line with the recommendations made in sections 4.2.21 to 4.2.23 of the ecological appraisal.

Condition 2 – PPP: The submission and implementation of a Pollution Prevention Plan in line with section 4.2.6 of the ecological appraisal.

Condition 3 – INNS: The submission and implementation of a Biosecurity Risk Assessment in line with the recommendations made within section 4.2.13 of the ecological appraisal and to the satisfaction of the LPA.

Protected Species

We note that the Ecological appraisal report submitted in support of the above application (09/08/2018 by Max Ellson) has identified that otters use the River Severn for foraging and potentially as a resting place, but no evidence of otter resting places were found near the 4 proposed access points. There is also a chance that water voles are still present on site in small numbers, but no evidence was found during the Phase 1 survey.

In this case, the report concludes that the proposal is unlikely to harm or disturb any protected species or their breeding sites and resting places and will, therefore, not require a licence from NRW. The report also suggests that as a precautionary measure pre-construction surveys should be carried out to establish presence of otters and water voles in and around the affected areas. A method statement will then be produced containing reasonable avoidance measures and if any protected species are found, work will not commence until the applicant has secured a license from NRW.

Otters and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Where bats are present and a development proposal is likely to contravene the legal protection they are afforded, the development may only proceed under licence issued by Natural Resources Wales, having satisfied the three requirements set out in the legislation. A licence may only be authorised if:

- i i. the development works to be authorised are for the purpose of preserving public health or 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.
- ii ii. There is no satisfactory alternative and
- iii iii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that your Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any otters on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

Water Voles are protected by law and are a conservation priority within the UK's Biodiversity Action Plan (BAP). Under the Wildlife and Countryside Act 1981 (as

amended by Variation of Schedule 5) (England) Order 2008 it is an offence to intentionally or recklessly:

- damage, destroy or obstruct access to any structure or place that water voles use for protection or shelter,
- disturb a water vole whilst it occupies such a place.

This increased protection adds prohibitions against intentional killing, taking or injury, possession and sale. It should also be noted that Section 10 of the Act requires that "reasonable" steps are taken to avoid unnecessary damage to such structures or places.

On the basis of the findings of the ecological appraisal, we do not consider that the development is likely to be detrimental to the species concerned provided all the recommendations made in the ecological appraisal are implemented.

Condition 1 – Protected Species: Prior to commencement of works a method statement detailing reasonable avoidance measures and works required to avoid disturbance to protected species shall be submitted to the satisfaction of the Local Authority. The method statement will be informed by the findings of a pre-construction survey in line with the recommendations made in sections 4.2.21 to 4.2.23 of the ecological appraisal.

We consider that the species utilizes the site for foraging, dispersal or sheltering purposes. In our view, we consider that both construction and operational phases of the proposal have the potential to adversely affect GCN and therefore, we advise that the works are to be carried out in accordance with the provisions of a derogation licence issued by NRW under Regulation 55 of the Conservation of Habitats and Species Regulations 2017.

NRW would refer the Local Authority to the Chief Planning Officer's letter dated 01 March 2018 which advises Local Planning Authorities to attach an informative regarding licence requirements to all consents and notices where European Protected Species are likely to be present on site.

However, because the development represents a lower risk for bats in this case, we do not consider that the development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range provided all the recommendations made in the mitigation section 12 of the report are implemented.

Pollution Prevention

Appropriate pollution prevention measures need to be implemented to ensure the river is not impacted by the development. All works at the site must be carried out in accordance with GPP5 'Works in, near or over watercourses' which is available at: <http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

Appropriate pollution prevention measures should be secured within a Pollution Prevention Plan to be approved by your authority and adhered to.

Condition 2 – PPP: The submission and implementation of a Pollution Prevention Plan in line with section 4.2.6 of the ecological appraisal.

Biosecurity

The ecological appraisal report has highlighted the presence of invasive non-native plants at the proposal. We consider biosecurity to be a material consideration owing to the nature and location of the proposal. In this case, biosecurity issues concern invasive non-native species (INNS) and diseases. We therefore advise that any consent includes the imposition of

Condition 3 – INNS: The submission and implementation of a Biosecurity Risk Assessment in line with the recommendations made within section 4.2.13 of the ecological appraisal and to the satisfaction of the LPA.

We consider that this assessment must include

- i (i) appropriate measures to control any INNS on site if present; and
- ii (ii) measures or actions that aim to prevent INNS being introduced to /allowed to disperse from the site for the duration of construction and operational phases of the scheme.

Flood Risk

Please refer to the comments made in our letter of 12/07/2018 (CAS-58610-Y9M2).

Scope of NRW Comments

Our comments above only relate specifically to matters that are included on our checklist “Natural Resources Wales and Planning Consultations” (March 2015) which is published on our website: (: <https://naturalresources.wales/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

Advice to the developer:

Please refer to the comments made in our letter of 12/07/2018 (CAS-58610-Y9M2).

Countryside Services

5th March 2018

I can confirm that a public footpath N26A runs adjacent to the proposed first access site.

The footpath may not be directly affected by the main development but could be affected by associated development.

It is strongly recommended that the applicant checks their proposals against the Definitive Map, which is the legal record of the location and status of public rights of way.

For public rights of way advice please visit our web page:

<http://www.powys.gov.uk/en/countryside-outdoors/footpaths-bridleways-and-other-public-rights-of-way/>

In the event of a successful planning permission please include a note advising that:

- Development over, or illegal interference with, a public right of way, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way. This includes temporary obstructions such as rubble mounds, building materials, parked vehicles etc...
- Landscaping & Surfacing - Advice will need to be sought before interfering or surfacing a public right of way.
- New fencing or boundaries – The developer will need to seek a licence for a new structure if intending to create a boundary across a public footpath or bridleway. We cannot authorise a structure across a Restricted Byway or Byway Open to All Traffic.
- Temporary closures – The developer can to seek a temporary closure of a public right of way from the council if they feel the public may be at risk during development.
- Legal Diversion – The developer will need to seek advice and apply for a legal diversion from the Council. No development can take place on a public right of way until a legal order is confirmed and the process may take at least 6 months. For more information please discuss with Countryside Services at the earliest available opportunity.

Canal & River Trust

E mail of the 20th March 2018

The Canal & River Trust is a statutory consultee under the Town and Country Planning (Development Management Procedure) (England) Order 2015. The current notified area applicable to consultations with us, in our capacity as a Statutory Consultee was

issued to Local Planning Authorities in 2011 under the organisations former name, British Waterways. The 2011 issue introduced a notified area for household and minor scale development and a notified area for EIA and major scale development.

This application falls outside the notified area for its application scale. We are therefore returning this application to you as there is no requirement for you to consult us in our capacity as a Statutory Consultee.

We are happy to comment on particular applications that fall outside the notified areas if you would like the Canal & River Trust's comments in specific cases, but this would be outside the statutory consultation regime and must be made clear to us in any notification letter you send. The document Development Management and British Waterways, issued to all LPAs with the changes to the notified areas in 2011, highlights some areas where specific cases may occur. This and further information on Planning and the Canal & River Trust can be found at: www.canalrivertrust.org.uk

Should you have a query in relation to consultation or notification of the Canal & River Trust on planning applications, please email us at planning@canalrivertrust.org.uk

Public Response

Ramblers Association

E mail of the 4th April 2018

Powys ramblers wish to support this application and endorse the comments made by Countryside Services.

Planning History

P/2017/1274: Proposed Green Infrastructure Project to include Site A - Change of use of land to form a play park / amenity area and erection of play equipment; Site B - Construction of a BMX pump track; Site C - Erection of hub building & formation of storage compound, formation of car park, new entrance and all associated works. Pending

P/2018/0237: Construction of access track and parking spaces to serve river activities access. Pending

Principal Planning Policies

National Planning Policy

Planning Policy Wales (10th Edition, 2018)

Technical Advice Note 5, Nature Conservation and Planning (2009)

Technical Advice Note 12: Design (2016)

Technical Advice Notes 15 - Development and Flood Risk (2004)

Technical Advice Note 16: Sport, Recreation and Open Space (2009)
Technical Advice Note 24: The Historic Environment (2017)

Local Planning Policy-Local Development Plan (2018)

SP7-Safeguarding of strategic Resources and Assets
DM2-Natural Environment
DM3-Public Open Space
DM4-Landscape
DM5-Development and Flood Risk
DM6-Flood Prevention Measures and Land Drainage
T1-Travel, Traffic and Transport Infrastructure

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note LDP=Powys Local Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

Other Legislative Considerations

Crime and Disorder Act 1998
Equality Act 2010
Planning (Wales) Act 2015 (Welsh language)
Wellbeing of Future Generations (Wales) Act 2015

Officer Appraisal

Principle of Development

Policy DM3 concerns development proposals within public open space, the proposed development is within public open space and as such this policy is relevant.

While this development proposes recreational facilities they would affect informal recreation areas at 4 locations along the riverbank. The policy includes a set of criteria that seeks to ensure public space is only lost where there is adequate reuse and alternative uses for the spaces have been explored.

The 4 sites comprise small areas of riverbank which, due to the topography and proximity to the river, are not actively used for recreational purposes. The proposed development would facilitate the recreational use of the river and open up these areas for access and general recreation. It is considered the proposed scheme would enhance the recreational potential on these areas of open space and the riverine environment and as such is considered acceptable.

Development in a flood risk area

The sites are within the river Severn C2 floodzone as defined by the TAN15 Development Advice Flood Maps (DAMs). Plans showing existing and proposed site sections and details of the apparatus to be constructed have been submitted as part of the scheme,

NRW confirm in their July response that principle of the 4 access structures is acceptable in terms of flood risk.

Reasonable avoidance measures for otter and vole and pollution prevention measures shall be secured via condition or via informative on any forthcoming consent.

The scale of the 4 sites in relation to the overall area of open space to be retained in Newtown and the proposed alternative uses are in keeping with the policy criteria set out under DM3 and as such the proposed formalised play areas are considered acceptable in principle. This report shall now consider detailed considerations.

Landscape and visual assessment

The character of the surrounding landscape is primarily riverine, the access points are constructed from natural materials in keeping with the natural appearance of the area and would further integrate into its surroundings as the wood and stone weather. The handrail is the only structure to extend above ground level and would not exceed 2m above ground level at its highest point.

Policy DM4 seeks to protect valued landscape characteristics and qualities from development which would have an unacceptable adverse effect. The proposed scheme would not alter the character of the landscape and would not be visible from any visually sensitive sites, as such the scheme is in accordance with policy DM4.

Ecological impact

It is important to be mindful of how a development proposal would impact directly and indirectly on biodiversity and in particular those species identified as being at risk under the Habitat Regulations (HR). In accordance with the HR, policy DM2 seeks to protect biodiversity from development which would have an unacceptable impact on the favourable conservation status of protected species.

Following initial consultation with the county ecologist and NRW, an Ecological Appraisal Report was produced by Marches Ecology dated 9th August 2018. The survey work identified no impact to badgers, bats or water vole and low potential impact to otter, reptile and nesting birds. The Ecologist considers any low impact can be suitably mitigated through the agreement of reasonable avoidance measures.

NRW and the County Ecologist confirm they are satisfied the proposed scheme would not have an unacceptable adverse impact on protected species provided the conditions regarding RAMs, pollution prevention and biosecurity risk form part of any forthcoming consent. The proposed scheme is considered in accordance with policy DM2.

Impact on the highway infrastructure

In accordance with policy T1 all development proposals are assessed in relation to their potential to generate traffic, suitable parking provision and a safe means are access. These elements are key to determining whether or not development would be acceptable in terms of highway safety.

Sites 2, 2a and 3 would have little to no impact on the existing highway infrastructure. Each site of these sites is located close to a public car park and would enable vehicles to bring/collect kayaks and canoes close to the access/egress points without altering the existing highway infrastructure.

Site 1 would be served by a new access, this access is considered under a separate application (P/2018/0237) and as such further information in line with the highway response has not been sought. To confirm, the highway authority are satisfied with the proposed access under the separate application.

The proposed river access points are acceptable in terms of highway safety.

Impact on residential amenity

Site 1 is close to houses on the Vaynor residential development, a number of third party responses have been raised under another application (P/2018/0237) which seeks consent for access and parking, however the provision of a river access point, in isolation to the proposed vehicle access point, does not raise concerns in terms of amenity of the neighbouring property.

Recommendation to Members

The proposed development is in accordance with the relevant national and local planning policies, as listed within this report, and as such it is recommended conditional consent is issued, together with the attached conditions.

Conditions

- 1 The development shall begin not later than five years from the date of this decision
- 2 The development shall be carried out in accordance with the following approved plans and documents, Point 2-Access/Egress UPST of Rapid Black Land Carpark (T009.3a.2.04), Point 2a Access/Egress DWST of Rapid Black Lane Car Park (T009.3a.2.05), proposed access point 1-Vaynor sports field and amenity space (T009.3a.2.03), Point 2 Egress-Gravel Lane Carpark (T009.3a.2.06)
- 3 Prior to commencement of the development a detailed Otter Reasonable Avoidance Method Statement shall be submitted for approval to the Local Planning Authority and implemented as approved.
- 4 Prior to commencement of the development a detailed Biosecurity Method Statement with regards to Invasive Non-native species shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details.

5 The development shall be carried out strictly in accordance with the recommendations regarding avoidance/mitigation/enhancement identified in the Ecological Appraisal Report produced by Marches Ecology dated 9th August 2018. The identified measures shall be adhered to and implemented in full and maintained thereafter.

6. Prior to commencement of development a pollution prevention plan shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved scheme.

Reasons

1 Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

2 To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.

3 To comply with Powys County Council's LDP Policies DM2 in relation to the Natural Environment and DM4 in relation to ecological qualities of the landscape and meet the requirements of Planning Policy Wales (Edition 10, November 2018), TAN 5: Nature Conservation and Planning (2009)

4 To comply with Powys County Council's LDP Policies DM2 in relation to the Natural Environment and DM4 in relation to ecological qualities of the landscape and meet the requirements of Planning Policy Wales (Edition 10, November 2018), TAN 5: Nature Conservation and Planning (2009)

5 To comply with Powys County Council's LDP Policy DM2, in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, November 2018), TAN 5: Nature Conservation and Planning (2009)

6. To comply with Powys County Council's LDP Policy DM2, in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, November 2018), TAN 5: Nature Conservation and Planning (2009)

Informative Notes

Ecology

1 Protected Species

Work should halt immediately and Natural Resources Wales (NRW) contacted for advice in the event that protected species are discovered during the course of the development. To proceed without seeking the advice of NRW may result in an offence under the Conservation of Habitats and Species Regulations 2017 and/or the Wildlife & Countryside Act 1981 (as amended) being committed. NRW can be contacted at: Tel: 0300 065 3000

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

It is an offence for any person to:

- o Intentionally kill, injure or take any bats.
- o 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:

- o 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 2017 that works to trees or structures 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 species of reptiles known to occur within Powys, namely the common lizard, slow-worm, grass snake and adder, are protected under the Wildlife and Countryside Act 1981 (as amended).

It is therefore an offence to:

- Intentionally kill or injure these species of reptiles,
- Trade (live or dead animals) i.e. sale, barter, exchange, transporting for sale and advertising to sell or to buy.

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

In addition these species of reptiles are also listed in Part 1 Section 7 of the Environment (Wales) Act 2016 - which is a list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales. Species of reptiles known to occur in Powys are also listed as Species of Conservation Concern on the Powys LBAP.

If reptiles are discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and/or the Council's Ecologist.

Otters - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2017

It is therefore an offence to:

Deliberately capture, injure or kill an otter;

Deliberately disturb an otter in such a way as to be likely to significantly affect the local distribution or abundance of otters or the ability of any significant group of otters to survive, breed, rear or nurture their young;

Damage or destroy an otter holt;

Intentionally or recklessly disturb any otter whilst it is occupying a holt; or

Intentionally or recklessly obstruct access to a holt.

Reasonable avoidance measures need to be implemented to ensure minimal impact to otter activity in the local area. These will include:

No night working or lighting of the works area;

Ensuring that no barriers to movement of otters along the river are created;

Keep unnecessary noise to a minimum during the works; and

Do not light any fires close to areas of vegetation.

- 2
 - o Development over, or illegal interference with, a public right of way, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way. This includes temporary obstructions such as rubble mounds, building materials, parked vehicles etc...
 - o Landscaping & Surfacing - Advice will need to be sought before interfering or surfacing a public right of way.
 - o New fencing or boundaries - The developer will need to seek a licence for a new structure if intending to create a boundary across a public footpath or bridleway. We cannot authorise a structure across a Restricted Byway or Byway Open to All Traffic.
 - o Temporary closures - The developer can to seek a temporary closure of a public

right of way from the council if they feel the public may be at risk during development.

- o Legal Diversion - The developer will need to seek advice and apply for a legal diversion from the Council. No development can take place on a public right of way until a legal order is confirmed and the process may take at least 6 months. For more information please discuss with Countryside Services at the earliest available opportunity.

Countryside services

- Development over, or illegal interference with, a public right of way, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way. This includes temporary obstructions such as rubble mounds, building materials, parked vehicles etc...
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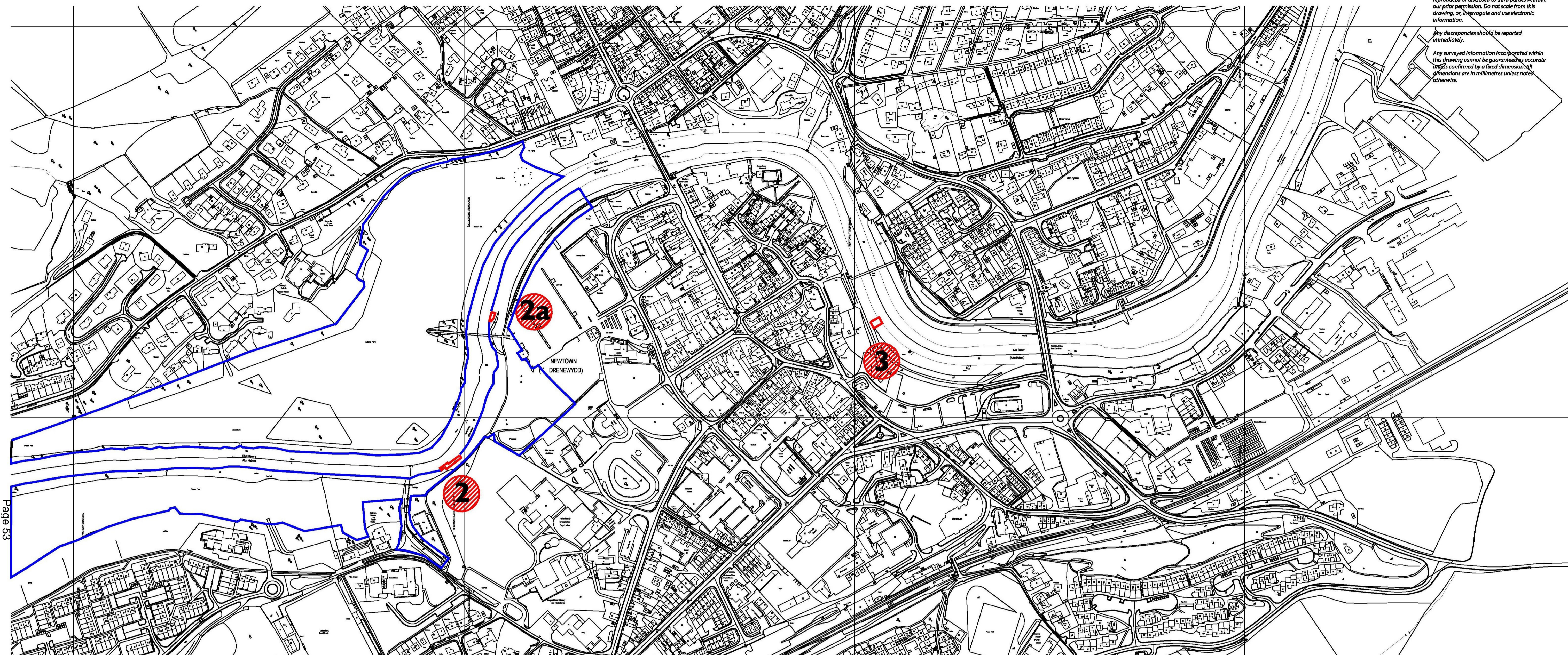
Signed.....
Planning Officer

Date:

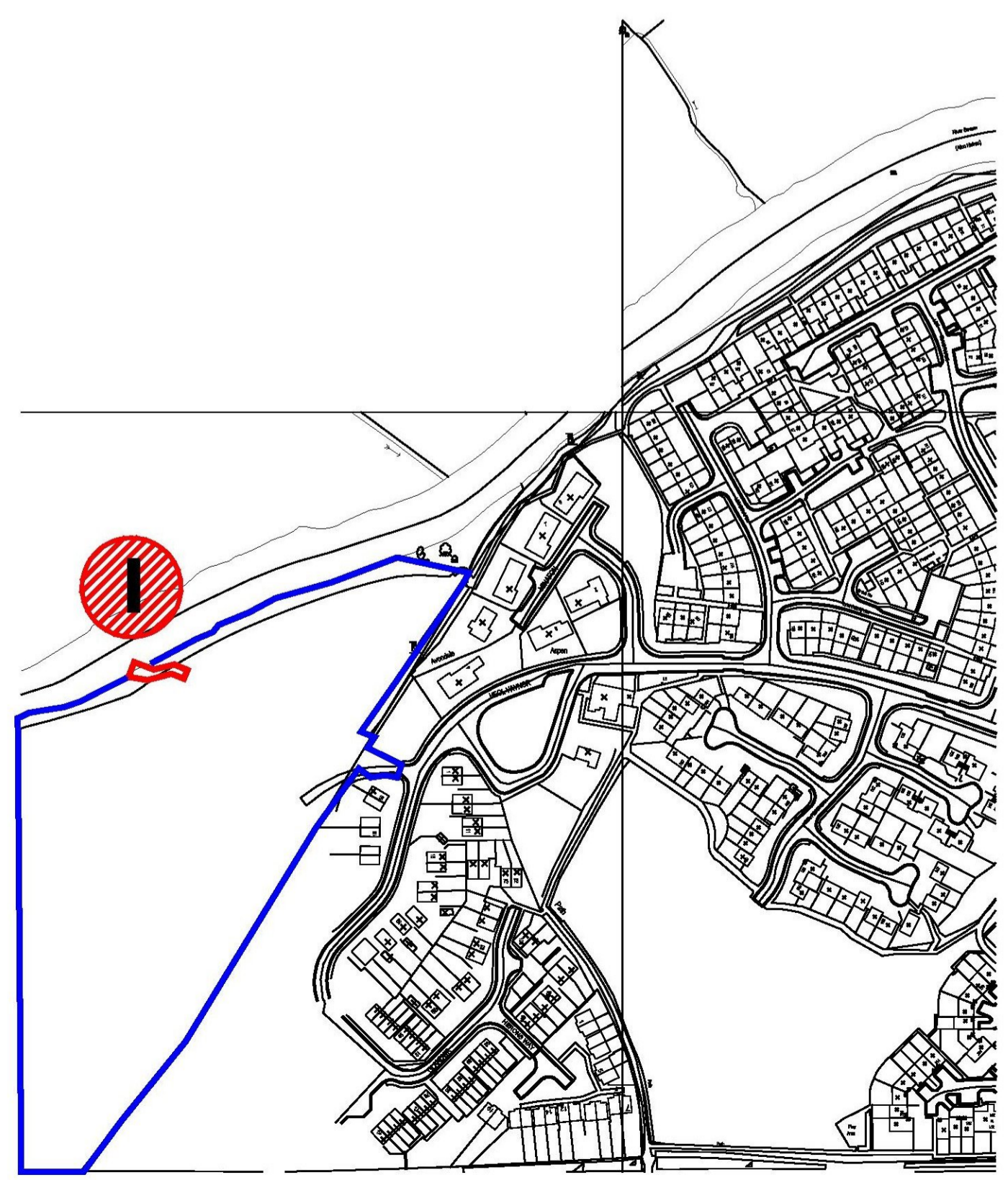
Signed.....
Principal Planning Officer

Date:

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KEY

- 1 - Proposed Access Point 1 - Vaynor Sports Field and Amenity Space**
Easting - 308750, Northing - 290868
- 2 - Proposed Access Point 2 - Point 2 Access/Egress UPST of Rapid - Black Lane Carpark**
Easting - 310477, Northing - 291434
- 2a - Proposed Access Point 2a - Access/Egress DWST of Rapid - Black Lane Carpark**
Easting - 310547, Northing - 291626
- 3 - Proposed Access Point 3 - Egress - Gravel Lane Carpark**
Easting - 311034, Northing - 291618

Key
 Site of application ———
 Land in ownership ———

| | | | |
|-------------------|----------|----------------------------------|-------------------------|
| Project :- | | Going Green, River Access Points | |
| Drawing Status :- | STAGE 3a | Drawing Title :- | Proposed Site Locations |
| Scale :- | 1:2500 | Date :- | 15.02.18 |
| Drawn by :- | @AI | Drawing No :- | T009.3a.1.02 |
| Checked :- | SG | Rev :- | B |

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4.4

Planning, Taxi Licensing and Rights of Way Committee Report

Application Number: 18/0390/REM

Grid Ref: E: 315759
N: 301953

Community Council: Berriew Community

Valid Date: 24.07.2018

Applicant: D Davies

Location: Maes Y Nant, Berriew, Welshpool, Powys, SY21 8BG

Proposal: Section 73 application to remove planning condition no. 3 attached to planning permission M2004/0930 (occupancy restriction)

Application Type: Removal or Variation of Condition

The reason for Committee determination

This application is submitted by a County Councillor.

Site Location and Description

The dwelling known as 'Maes Y Nant' is located directly off the U2420 unclassified highway approximately 2 miles north west of the settlement of Berriew. The existing dwelling is a 4 bedroomed detached dwelling with attached double garage, lawned area and rear parking area.

This dwelling was granted consent under application M/2004/0930 subject to an occupancy restriction condition (condition 3) which reads as follows:

3. The occupation of the proposed dwelling shall be limited to a person solely or mainly employed, or last employed prior to retirement, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any dependents normally residing with such person.

This application seeks to remove condition 3 as above.

Consultee Responses

Consultee

Received

Community Council

14th Sep 218

Berriew Community Council objects to the removal of the restriction as circumstances

have not changed, and the Council wishes to remain consistent in its view of not removing restrictions of this nature

Highway Authority

20th Aug 2018

Does not wish to comment on the application

PCC – Affordable Housing Officer

4th January 2018

Having reviewed the application in the light of our discussion and the comments below I feel it would be just as difficult to market the property as affordable as it has proved for agricultural use.

I would therefore support the application and not wish to impose retention as affordable since this is an area where even following our SPG regarding discount level the price would not be affordable to local earnings levels.

I would therefore have no objection to the application being approved without further condition.

Representations

A public site notice was erected at the site on the 17th of August 2018. No third party representations have been received by Development Management at the time of writing this report.

Planning History

| App Ref | Description | Decision | Date |
|----------------|--|-----------------|-------------|
| M/2004/0930 | Erection of an agricultural workers dwelling & formation of a vehicular access | Granted | 09/03/2005 |
| P/2009/0854 | Erection of an integral double garage | Consent | 15/09/2009 |

Principal Planning Policies

| Policy | Policy Description | Year | Local Plan |
|---------------|---|-------------|-------------------|
| PPW | Planning Policy Wales (Edition 10, December 2018) | | National Policy |

| | | |
|------------------|---|----------------------------------|
| TAN6 | Planning for Sustainable Rural Community | National Policy |
| TAN23 | Economic Development | National Policy |
| Welsh Government | Rural Enterprise Dwellings – Practice Guidance 2011 | National Guidance |
| H1 | Housing Development Proposals | Local Development Plan 2011-2026 |

Other Legislative Considerations

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

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

Officer Appraisal

Introduction

The dwelling known as ‘Maes Y Nant’ was granted planning consent under application M/2004/0930 for the erection of an agricultural workers dwelling, and formation of a vehicular access. The dwelling was granted consent subject to a condition restricting the occupancy of the dwelling to an occupier solely or mainly employed, or last employed prior to retirement, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any dependents normally residing with such person.

The property is not connected to an agricultural farmstead and has no land other than the modest garden lawned area. The dwelling has been actively marketed since November 2016 with the sales particulars identifying that the dwelling was subject to an agricultural occupancy restriction. The property has now been marketed for over 2 years. This application has been submitted with full marketing information and evidence in order to justify the removal of condition 3 of the original consent.

Property Valuation

The information submitted with the application includes a marketing report from a reputable property agent which confirms that the property asking price of £235,000 was realistic and reflected the occupancy restriction attached to the dwelling. The report has compared this dwelling with others on the market in the area without a restriction attached of similar scale which confirms that there are no dwellings below £350,000 at the time of the marketing report. The agent has confirmed that the marketed price realistically reflects the restriction upon it. Officers consider that the marketed price is realistic given the size and scale of the dwelling and current occupancy restriction.

Marketing Information

The marketing report submitted in support of this application confirms that the property has been offered for sale and rent since November 2016 and January 2017 respectively. The dwelling has been advertised on the internet, various local newspapers and at the agent's property offices in both Welshpool and Newtown. Copies of the advertisements have been provided as evidence. Written particulars have been made available at the property offices and to anyone expressing an interest in the dwelling. The property has been advertised on the McCartneys website, rightmove and OnTheMarket.com.

The sales price was listed at £235,000 which is considered to be realistic given the scale of the dwelling and the occupancy restriction in place. The property was also advertised for rent with sales particulars indicated price on application. The agent has confirmed that the rental value for the property was £695 which is considered to be appropriate given the scale, location and condition of the dwelling.

In response to the marketing of the dwelling the report confirms that there has been some enquiries of which none of the parties were compliant with the occupancy condition attached to the grant of consent for the dwelling. No offers for purchase have been received on the property and no tenants who would have met the occupancy restriction criteria have come forward.

Consideration of Marketing and Supporting Information

The property has been marketed appropriately for more than 12 months and the lack of interest is no fault of the advertising process itself. The marketing information submitted with the application and the extent of marketing efforts carried out is considered to be acceptable with the price that the dwelling has been marketed at for sale and for rent is acceptable given the scale, age and condition of the dwelling.

Policy Context

The LDP no longer specifically has a policy relating to dwellings in the open countryside, rural enterprise dwellings and the removal of any occupancy restriction

attached to a dwelling. The Welsh Government Rural Enterprise dwelling practice Guidance gives advice to local authorities when considering the absence of continuing need. The guidance refers to the need of effective marketing for at least 12 months and at a price that reflects the occupancy restriction (Para.8.27). The value should be between 70-75% of the open market value (Para.8.28).

The relevant policy position with regards to the removal of occupancy conditions can be taken from Technical Advice Note (TAN) 6 and Welsh Government Circular 016/2014. Paragraph 4.13.5 of TAN 6 states that;

4.13.5 Where planning applications are received to lift existing agricultural occupancy conditions or where enforcement action is being taken for non-compliance with the condition, the planning authority should consider replacing the existing agricultural occupancy condition with the rural enterprise dwelling condition set out in paragraph 4.13.1. This will often be justified to ensure that the dwelling is kept available to meet the housing needs of rural workers and local people in need of affordable housing.

In considering removing the existing occupancy restriction, consideration has been given to replacing the existing agricultural occupancy condition with the rural enterprise condition detailed within the TAN however given the marketing efforts to date together with the scale and value of the dwelling, it is not considered that the accommodation would be suitable for rural enterprise workers.

In terms of affordable housing, the Welsh Governments Acceptable Cost guidance (ACG) figure for an affordable self-contained unit in the area of the dwelling for a 6 person 4 bedroomed house is £192,000. This is significantly below the asking price the dwelling was marketed at even with the reduced market value being applied. The Affordable Housing Officer has been consulted and has stated that the dwelling is located in an area where the discount level price would not be affordable to local earnings levels. As such, the Affordable Housing has raised no objection to the removal of the condition.

Officers do not consider that the value of the dwelling is in accordance with the acceptable cost guidance for an affordable dwelling in this area and is furthermore considered to be in an unsustainable location. On this basis, it would be considered unreasonable to replace the existing condition with the standard affordable housing conditions set out in paragraph 4.13.1 of TAN 6.

Having carefully considered the proposed development, Officers are satisfied that sufficient evidence has been submitted to demonstrate that genuine attempts have been made to market the property at a price that realistically reflects the occupancy restriction. On the basis of the evidence submitted, Officers consider that there is no longer a continuing need for an agricultural workers dwelling at this location and therefore consider the removal of the condition to be in accordance with planning policy.

RECOMMENDATION

In light of the above, Officers are satisfied that the removal of the condition has been justified by robust marketing evidence and therefore complies with planning policy. The recommendation is therefore one of consent.

Case Officer: Bryn Pryce, Planning Officer
Tel: 01597 827126 E-mail: bryn.pryce@powys.gov.uk



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4.5

Planning, Taxi Licensing and Rights of Way Committee Report

Application Number: 18/0544/FUL **Grid Ref:** E: 316249
N: 294550
Community Council: Abermule And Llandyssil Community **Valid Date:** 03.10.2018

Applicant: Mr Gareth Pugh

Location: G M Profiles, Station Yard, Abermule, Montgomery, Powys SY15 6NH

Proposal: Erection of lean-to extension to existing warehouse

Application Type: Full Application

The reason for Committee determination

This application is submitted by a County Councillor.

Site Location and Description

This site is accessed via a private access road off the B4368 classified highway and is located directly adjacent to the rear of the existing warehouse building occupied by G M Profiles. The application site is currently used as a storage area for equipment, materials and implements.

This application seeks consent for the erection of a lean to extension to the existing warehouse. The proposed extension will measure approximately 32.9 metres in length, 9.6 metres in width, 6 metres in height to the eaves and 98 metres in height to the ridge.

Consultee Responses

| Consultee | Received |
|--|---------------|
| Community Council | 7th Nov 2018 |
| Unable to make comment as Council were not quorate | |
| Building Control | 19th Oct 2018 |
| Please be aware that Building Regulations approval will be required. | |

Wales & West Utilities - Plant Protection
Team

26th Oct 2018

Station Yard, Abermule, MONTGOMERY, Powys, SY15 6NH

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

Wales & West Utilities have no objections to these proposals, however our apparatus may be at risk during construction works and should the planning application be approved then we require the promoter of these works to contact us directly to discuss our requirements in detail. Should diversion works be required these will be fully chargeable.

Wales & West Utilities apparatus may be directly affected by these proposals and the Information you have provided has been forwarded to Asset Management for their comments. If Wales & West are affected an Engineer will then contact you direct.

Please note this is in regard only to those pipes owned by Wales & West Utilities in its role as a licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned may be present in this area and information with regards to such pipes should be obtained from the owners.

Wales & West Utilities - Plant Protection
Team

5th Dec 2018

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

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Please note this is in regard only to those pipes owned by Wales & West Utilities in its role as a licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned may be present in this area and information with regards to such pipes should be obtained from the owners.

Highway Authority

12th Nov 2018

HC8 Prior to the first beneficial use of the development, provision shall be made within the curtilage of the site for the parking of not less than 30 Cars/Light Goods Vehicles 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.

Environmental Health

23rd Oct 2018

Environmental Protection has no objection to the application.

County Ecologist

31st Oct 2018

Thank you for consulting me with regards to planning application 18/0544/FUL which concerns an application for the erection of a lean-to extension to existing warehouse at G M Profiles, Station Yard, Abermule.

I have reviewed the proposed plans, aerial images as well as local records of protected and priority species and designated sites within 500m of the proposed development.

The data search identified 108 records of protected and priority species within 500m of the proposed development with no records found for the site itself. Species recorded

within 500m of the proposed development include brown long eared bat, hare, house sparrow and grass snake.

Two statutory designated sites were identified within 500m of the proposed development;

- SAC - Montgomery Canal approximately 425m from the proposed development site
- SSSI - Montgomery Canal approximately 425m from the proposed development site

No non-statutory designated sites were identified within 500m of the proposed development.

Having taken into account the location of the designated sites in relation to the proposed development and the nature of the works proposed it is considered that there would be no likely negative impacts directly or indirectly to the designated sites and/or their associated features.

The proposed development is located on the site of an existing warehouse building and is likely to impact areas of hard standing which is a habitat considered to be of low ecological value.

Bats - European Protected Species

Given that the proposed development impacts an existing building, consideration has been given to the potential for the structures to support roosting bats - bats being a European Protected species.

Having reviewed the site photos it is considered that the existing building lacks suitable features to support roosting bats. The building is a steel portal warehouse with roof lights that offers negligible opportunity for bats to utilise the existing structure for roosting. Therefore it is considered that the proposed development will not result in impacts to or the loss of features or habitat suitable for use by roosting bats.

Having reviewed the submitted information and the nature of the proposed development it is considered that there is negligible potential for negative impacts to biodiversity at the proposed development site or in the wider environment

Cadw

23rd Oct 2018

Thank you for your consultation. Our records show there are no scheduled monuments or registered parks and gardens affected by the proposed development. We therefore have

no comments to make.

Clwyd Powys Archaeological Trust

18th Oct 2018

I can confirm that there are no archaeological implications for the proposed development at this location.

Representations

A public site notice was displayed at the site on the 19th of October 2018. No third party representations have been received by Development Management at the time of writing this report.

Principal Planning Policies

| Policy | Policy Description | Year | Local Plan |
|---------------|---|-------------|----------------------------------|
| PPW | Planning Policy Wales (Edition 10, December 2018) | | National Policy |
| TAN4 | Retail and Commercial Development | | National Policy |
| TAN5 | Nature Conservation and Planning | | National Policy |
| TAN11 | Noise | | National Policy |
| TAN12 | Design | | National Policy |
| TAN18 | Transport | | National Policy |
| TAN23 | Economic Development | | National Policy |
| TAN24 | The Historic Environment | | National Policy |
| SP2 | Employment Growth | | Local Development Plan 2011-2026 |
| SP5 | Settlement Hierarchy | | Local Development Plan 2011-2026 |
| SP7 | Safeguarding of Strategic | | Local Development |

| | | |
|------|--|----------------------------------|
| | Resources and Assets | Plan 2011-2026 |
| DM2 | The Natural Environment | Local Development Plan 2011-2026 |
| DM6 | Land Drainage | Local Development Plan 2011-2026 |
| DM10 | Contaminated and Unstable Land | Local Development Plan 2011-2026 |
| DM13 | Design and Resources | Local Development Plan 2011-2026 |
| E2 | Employment Proposals on Non-Allocated Employment Sites | Local Development Plan 2011-2026 |
| T1 | Travel, Traffic and Transport Infrastructure | Local Development Plan 2011-2026 |

Other Legislative Considerations

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

Officer Appraisal

Principle of Development

In accordance with LDP policy E2, proposals for employment development on non-allocated sites will be permitted where it is demonstrated that no other suitable existing or allocated employment sites or previously developed land can reasonably accommodate the proposal, and where at least one of the following criteria is met:

1. The proposal is up to 0.5ha. and is located within or adjoining a settlement with a development boundary.
2. The proposal is for the limited expansion, extension or environmental improvement of existing employment sites and buildings.

3. The proposal is appropriate in scale and nature to its location and is supported by a business case which demonstrates that its location is justified.

This application is for the extension of an existing industrial building within the settlement development boundary of Abermule and has a site area of less than 0.5Ha. The proposed extension is considered to be subservient in scale, height and mass relative to the existing commercial building on site.

In light of the above, it is considered that the proposed development fundamentally complies with policy E2 of the Powys Local Development Plan 2018.

Scale, Design and Appearance

Policy DM13 of the Powys Local Development Plan seeks to ensure that development is designed to complement and/or enhance the character of the surrounding area in terms of siting, appearance, integration, scale, height, massing and design detail. Developments should not have an unacceptable detrimental impact upon the amenities enjoyed by the occupants or users of nearby properties by means of noise, dust, air pollution, litter, odour, hours of operation, overlooking or any other planning matter.

The proposed extension measures approximately 32.9 metres in length, 9.6 metres in width, reaching a ridge height of approximately 8 metres. The proposed extension has a pitched roof. The walls will be clad in preformed metal cladding (green) whilst the roof will be clad in fibre cement sheets (natural grey). Officers consider that the proposed extension is acceptable in terms of scale, siting and external appearance and therefore will not adversely affect the character and appearance of the existing building or surrounding area. For the reasons stated above, it is considered that the proposal is in accordance with policy DM13 of the Powys LDP.

Residential Amenity

LDP policy DM13 seeks to safeguard the amenities enjoyed by occupants of existing and proposed properties.

The existing warehouse accommodates a steel fabrication business with residential properties located within close proximity of the existing building (nearest dwelling being approximately 45 metres to the south east). Environmental Health has been consulted and raised no objection to the proposed development.

Officers consider that the proposed extension is sited as such that the proposal would not have an unacceptable adverse impact upon the amenities enjoyed by the occupants of the nearest residential neighbouring properties. In light of the above and Environmental Health observations, Officers consider that the proposed development is in accordance with policy DM13.

Highways Safety and Movement

Policies DM13 and T1 of the Powys Local Development Plan 2018 states that development proposals should incorporate safe and efficient means of access to and from the site for all transport users, manage any impact upon the network and mitigate adverse impacts.

The Highway Authority has been consulted and raised no objection to the proposed development subject to the recommended condition being attached to any planning permission in order to secure the implementation of onsite parking as detailed on the submitted plans. Officers consider that the proposed access and parking arrangements are acceptable and the proposed extension would not result in the loss of any turning or parking area associated with the existing business.

In light of the above, Officers consider that the proposed development is in accordance with planning policy, particularly policy DM13 and T1 of the LDP, Technical Advice Note 18 and Planning Policy Wales.

Ecology and Biodiversity

LDP policy DM2 indicates that development proposals should demonstrate how they protect, positively manage and enhance biodiversity and geodiversity interests including improving the resilience of biodiversity through the enhanced connectivity of habitats within, and beyond the site. Proposals which unacceptably affect protected species or designated sites will not be supported. This is echoed within Technical Advice Note 5 and PPW.

The County Ecologist has been consulted and raised no objection to the proposed development stating that there is negligible potential for negative impacts to biodiversity at the proposed site or in the wider environment. The proposed site is located approximately 425 metres from the Montgomery Canal SSSI/SAC. The Ecologist considers that there would be no likely significant impacts directly or indirectly to the designated site and/or their associated features.

In light of the above, Officers consider that the proposed development is in compliance with policies DM2 and DM13 of the Powys LDP, Technical Advice Note 5 and PPW.

RECOMMENDATION

Officers are satisfied that the proposed development complies with the relevant policies within the Powys County Council Local Development Plan as considered above. The recommendation is therefore one of conditional consent subject to the conditions as set out below.

Conditions

1. The development shall begin not later than five years from the date of this decision.

2. The development shall be carried out in accordance with the following approved plans and documents (Existing and Elevation, Proposed Elevations, Proposed Plan, 929/18/1, 929/18/2)

Reasons

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.

Case Officer: Bryn Pryce, Planning Officer
Tel: 01597 827126 E-mail: bryn.pryce@powys.gov.uk

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PHILIP HUMPHREYS ARCHITECTS

Tan-y-Castell, Broad Street, MONTGOMERY, SY15 6PH. Tel./Fax: 01686 668373

Proposed Warehouse Extension at Agremont Depot, Abermule

Location Plan

□ scale: 1/1250 □ date: November 2018 □ 929/18/ 1

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Penderfyniad ar yr Apêl

Ymweliad safle a wnaed ar 22/11/18

gan Hywel Wyn Jones BA (Hons) BTP
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 11/12/18

Appeal Decision

Site visit made on 22/11/18

by Hywel Wyn Jones BA (Hons) BTP
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 11/12/18

Appeal Ref: APP/T6850/Q/18/3210595

Site address: Penarth, Llidiartywaun, Llanidloes, SY18 6JT

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a refusal to discharge a planning obligation.
- The appeal is made by Miss J Stacey against the decision of Powys County Council.
- The development to which the planning obligation relates is a dwelling house, garage and sewage treatment plant.
- The planning obligation, dated 30 January 2004, was made between Powys County Council and Joanna Margaret Stacey and was varied on application (ref: VAR/2014/0050) by notice dated 30 October 2014.
- The application (ref: VAR/2018/0019), dated 16 April 2018, was refused by notice dated 9 July 2018.
- The application sought to have the planning obligation discharged.

Decision

1. The appeal is allowed. The planning obligation, dated 30 January 2004, made between Powys County Council and Joanna Margaret Stacey, no longer serves a useful purpose and is discharged.

Main Issue

2. The main issue is whether the planning obligation continues to serve a useful purpose by controlling the size of the dwelling.

Reasons

3. Penarth is a 3 bedroom dwelling which includes en-suite facilities, dining room and kitchen, sitting room, utility, and an integral garage. It is set in expansive grounds in an attractive landscape which, for the purposes of planning policy, is open countryside.
4. The subject agreement was entered into in connection with the grant of permission in 2004 for the dwelling which is now the appellant's home and originally contained 3 obligations. In 2014 the Council varied the agreement to omit 2 of the obligations, which restricted the occupation of the dwelling to the appellant and, thereafter, to persons with a local connection. The remaining obligation, which is the subject of this appeal, restricts the dwelling (excluding garages) to a gross floor space of 130m².

5. The Council explains that its intention when granting permission for the dwelling was that it would contribute to the local supply of affordable housing. It considers that, in the absence of evidence to the contrary from the appellant, the obligation ensures that the dwelling makes a useful contribution to the supply of affordable housing.
6. As the appellant points out since the variation of the original agreement there is no restriction on the occupancy of the dwelling and no means of restricting its resale price. Planning Policy Wales explains that an affordable house is one subject to a mechanism that ensures that it is accessible to those who cannot afford market housing. This is reflected in policy SP3 of the Powys Local Development Plan. In the absence of such a mechanism the property is an open market dwelling.
7. I acknowledge that the restriction on the size of the dwelling influences its market value but that does not, on its own, ensure its accessibility as an affordable dwelling. Moreover, in this case the size of the dwelling¹ and the plot materially exceed the limits which are set out in the Council's recently adopted supplementary planning guidance (SPG): Affordable Housing. The property has been valued with the size restriction by a local surveyor on behalf of the appellant at a figure which is almost twice the value that the average household in Powys are able to afford according to the SPG.
8. The Council contends that there is an onus on the appellant to demonstrate that the dwelling is no longer required as an affordable dwelling. However, I consider that such a justification cannot apply in this case given that the subject property is not an affordable dwelling.
9. As the restriction does not facilitate the property's potential contribution to the supply of affordable housing I find that it is not necessary. As a result it does not satisfy tests set out in Welsh Office Circular 13/97: Planning Obligations and in Regulation 122 of the Community Infrastructure Levy Regulations 2010. Furthermore it serves no useful purpose and, accordingly, I shall discharge the obligation.
10. I note the 2 appeal decisions² referred to by the Council, one in 2012 the other in 2016, where it was found that limiting the size of a dwelling served a useful purpose by limiting its value. I have reached my findings on the specific circumstances of this case and the evidence provided, and in the light of the current local planning policies and guidance, which have been adopted after the cited appeal decisions.
11. In reaching my decision I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle, through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

Hywel Wyn Jones

INSPECTOR

¹ The SPG sets out a notional space standard of 88m² and 94m² for a 3 bed house on the basis of Welsh Government's Acceptable Cost Guidance and provides that the maximum should be 115m² (which is the standard for a 7 person 4 bed house). It also states that calculation should include integral garages.

² APP/T6850/Q/12/2181358 & APP/T6850/Q/15/3137226

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 23/11/18

**gan Richard Duggan BSc (Hons)
DipTP MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 12/12/18

Appeal Decision

Site visit made on 23/11/18

**by Richard Duggan BSc (Hons) DipTP
MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 12/12/18

Appeal Ref: APP/T6850/A/18/3212223

**Site address: Troedybryn, C2018 From Junction by Llys-Onnen at Abercegir to
Junction with A489T at Pont Ab, Abercegir, Machynlleth SY20 8NR**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the
appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Frantisek Sic against the decision of Powys County Council.
 - The application Ref P/2017/1142, dated 25 September 2017, was refused by notice dated 12 June 2018.
 - The development proposed is the erection of a single, affordable detached three bedroom family dwelling with a separate garage/ workshop.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Frantisek Sic against Powys County Council. This application is the subject of a separate Decision.

Procedural Matters

3. On 17 April 2018 the Powys Local Development Plan (LDP) 2011-2026 was adopted. The LDP supersedes all former adopted development plans which were relevant at the time the planning application was submitted. This appeal must therefore be determined in accordance with the adopted LDP unless material considerations indicate otherwise. As the application was determined and the appeal submitted following the adoption of the LDP the Appellant has had time to consider and comment upon the relevant policies of the LDP, and I have considered these in my determination of this appeal.
 4. The Appellant has raised concerns in his submissions regarding the Council's processing of the planning application. However such matters are not relevant to my determination of the merits of the particular proposal before me and I have afforded them no weight in determining the appeal.
-

Main Issues

5. I consider the main issues to be; whether the proposal would satisfy local and national planning policies which seek to strictly control residential development in the open countryside; and the effect of the development on the setting of listed buildings and on nature conservation interests.

Reasons

Policy

6. The settlement hierarchy set out within Strategic Policy SP5 of the LDP comprises towns, large villages, small villages, rural settlements and open countryside, and establishes development limits for towns and large villages by designating development boundaries. Strategic Policy SP6 establishes the distribution of housing in accordance with the settlement strategy, the level of service provision and size, and subject to its capacity to accommodate sustainable growth. Policy SP6 sets out that the lowest proportion (no more than 15%) of new development required over the Plan period will be directed to rural settlements and open countryside.
7. Although the appeal site lies within a linear grouping of dwellings and would be the third of a development of three units, it is clearly separated from the main historical core of the village and thus, for the purposes of planning policy, it is within the open countryside where development is strictly controlled in the interests of sustainable development. Policy SP6 of the LDP states that only housing development that complies with the national exceptions policies will be permitted in the open countryside, and Policy H1 permits housing development on sites within the open countryside where the development relates to a need for housing which meets current national policy on housing in the open countryside.
8. There is no dispute that there is a need for affordable housing within Powys and the provision of affordable housing is therefore of considerable importance, as such I have had regard to the local needs questionnaire submitted by the Appellant and that his family complies with the relevant criteria. Nonetheless, I would concur with the Council that the scale of the affordable dwelling being proposed would be at odds with the guidance set out within the Council's adopted Supplementary Planning Guidance 'Affordable Housing' (SPG), 2018. As the SPG provides a context upon which to implement adopted development plan policy rather than attempting to introduce new policy I afford it considerable weight. Although the SPG is for guidance purposes only it states that 3 bedroom affordable dwellings should have a gross floorspace of no more than 94 sqm, with the largest of affordable homes (7 person 4 bedrooms) not exceeding a floorspace of 115 sqm. As the proposed dwelling would have a floorspace of approximately 123 sqm this would be significantly larger than the SPG guidelines, and the proposed outbuilding/workshop, which would be approximately 32.49 sqm, is more than double the 15 sqm limit for detached ancillary buildings outlined in the SPG.
9. Although the majority of the appeal site does not appear to be currently in use for the purposes of agriculture or forestry, it identifies closely with the agricultural land and natural landscape quality of the open countryside beyond its boundaries. Therefore, to develop the appeal site would extend the built form into an area of open field and it would extend the pattern of the built-up area out in a ribbon form. The appeal site has a greater affinity with a field in open countryside than the built form of the village. This is because it has an open setting which is set apart from the village core to the south, and the development of the site would be seen as an obvious encroachment

into open countryside. The dwelling would be in a prominent position, visible from surrounding countryside and would be out of character with the countryside of which it is a part.

10. There are no facilities such as a shop, public house or employment opportunities found in the village, and I observed that the options for travelling without the use of a car are somewhat limited, not least due to the relatively isolated location of Abercegir. Prospective occupiers of the dwelling would need to travel to Machynlleth for essential services and facilities to meet their day to day needs and it would be highly likely that these trips would be made using the private car. The thrust of national planning policy seeks to create balanced sustainable rural communities, with new development located within and adjoining those settlements where it can be best accommodated in terms of infrastructure and access. I therefore consider that the proposal would be at odds with national policy insofar as it would be located outside of a settlement and would be inadequate in terms of its accessibility by non-car modes.
11. The LDP provides the rational basis for decisions in accordance with the presumption in favour of sustainable development as set out in PPW¹. The countryside should be protected for its intrinsic sake and the need to promote a resource-efficient and climate change resilient settlement pattern that minimise land-take is one of the Well-being of Future Generations (Wales) Act 2015 goals. Development in the countryside is restricted by national policy and LDP Policies SP5, SP6 and H1, and as presented the appeal development would conflict with these policies.

Listed buildings

12. Due to the surrounding open land the listed buildings of Llwyn Y Ffynnon and the adjacent barn appear as relatively isolated, and this setting makes a valuable contribution to the significance of these listed buildings. The proposal would introduce new built form into undeveloped space that, at present, positively contributes to the rural character of the immediate area and the setting of the listed buildings. The proposal would therefore erode the present open and rural character of the site and the area. Furthermore, the proposed dwelling and the listed buildings would be seen together in views from the main road and across the open landscape, which would be accentuated by the appeal site being significantly above the ground level of Llwyn Y Ffynnon thus having a dominating effect. Consequently, the relative isolation of Llwyn Y Ffynnon and the adjacent barn would be appreciably eroded by the siting of the dwelling and the detached garage. As such, the proposal would detract from the rural and open setting of the listed buildings.
13. I accept that there are other new dwellings in the vicinity and that landscaping could be utilised on the site, but this does not outweigh the harm that would be caused to the setting of the listed buildings of Llwyn Y Ffynnon and the adjacent barn by the loss of open land and its replacement by built development. Therefore, the proposed development would not preserve the setting of the nearby listed buildings and would be contrary to Policy SP7 of the LDP.

Nature conservation

14. Paragraph 6.2.2 of Planning Policy Wales Technical Advice Note (TAN) 5 'Nature Conservation and Planning' indicates that any survey work that is required should be carried out before planning permission is granted where there is a reasonable likelihood of a protected species being present and affected, otherwise all relevant

¹ PPW edition 10 paragraph 1.17

material planning considerations may not have been addressed in making the decision. TAN5 advises that planning permission should not be granted subject to a condition requiring a survey to be carried out.

15. Although Natural Resources Wales do not raise any concerns regarding the development of the site, the Council's ecologist highlighted the potential for reptiles on the site and requested a Phase 1 Habitat Survey to be undertaken to identify any potential impacts on reptiles and any need for mitigation measures. No surveys have been undertaken as part of the planning application or appeal process.
16. Therefore, on the basis of the available evidence I find that there is insufficient information available to establish the potential impact of the scheme on local reptile populations. Mindful of the relevant national policy advice on protected species in TAN5, this is a matter that requires to be understood before planning permission is granted, rather than being addressed by planning condition. I find that the circumstances of this case justifies a precautionary approach, in order to avoid potentially harmful impact on protected species which would conflict with Policy DM2 of the LDP.

Other matters

17. I fully understand the Appellant's position in terms of the need for the dwelling to house his family and that this would have a positive benefit within the community, hence, the letter of support from neighbours. Nevertheless, these matters do not outweigh the harm that I have identified against the main issues above.

Conclusions

18. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.
19. Having regard to the above and considered all other matters raised, I conclude that the appeal should be dismissed.

Richard Duggan

INSPECTOR

Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 23/11/18

gan **Richard Duggan BSc (Hons)**
DipTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 12/12/18

Costs Decision

Site visit made on 23/11/18

by **Richard Duggan BSc (Hons) DipTP**
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 12/12/18

Costs application in relation to Appeal Ref: APP/T6850/A/18/3212223

Site address: Troedybryn, C2018 From Junction by Llys-Onnen at Abercegir to Junction with A489T at Pont Ab, Abercegir, Machynlleth SY20 8NR

The Welsh Ministers have transferred the authority to decide this application for costs to me as the appointed Inspector.

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
- The application is made by Mr Frantisek Sic for a full award of costs against Powys County Council.
- The appeal was against the refusal to grant planning permission for the erection of a single, affordable detached three bedroom family dwelling with a separate garage/ workshop.

Decision

1. The application for an award of costs is refused.

The submissions for Mr Frantisek Sic

2. The Appellant contends that the planning application was assessed against a policy which had not been implemented at the time of submission and was subsequently refused, but if the correct policy had been used the application would have been approved. The second reason for refusal related to the built heritage officer's insistence that the dwelling will adversely impact a listed building, despite numerous attempts to demonstrate that this is not the case including the preparation of a 'Sketchup', therefore, the applicant has already spent a considerable amount of money on additional work.

The response of Powys County Council

3. In response, the Council states that the agent submitting both the application and the appeal would be aware of the requirement of the Local Planning Authority (LPA) to determine applications based on the policies adopted at the time of determination, not at the time of submission. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states: 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. Furthermore, paragraph 3.1.3 of Planning Policy Wales (9th Edition, 2016)¹ states:

¹ Since the Council submitted their response the 10th Edition of Planning Policy Wales was issued in December 2018.

`...applications for planning permission or for the renewal of planning permission, should be determined in accordance with the approved or adopted development plan for the area.

4. The application was submitted to the LPA in October 2017 prior to the adoption of the Local Development Plan (LDP). During the course of the application the Council attempted to overcome concerns raised by the Built Heritage and Ecology officers to progress the application. The final set of comments from the Built Heritage officer was received on the 22 May 2018, one month following the adoption of the LDP.
5. As there had been a significant change in policy since the submission of the application, with the LDP being adopted, it is considered that it was not unreasonable of the LPA to determine the application based on the adopted planning policies.

Reasons

6. Section 12.3 of the Welsh Government's Development Management Manual and the associated Section 12 Annex '*Award of Costs*' ('the Annex') advise that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process.
7. In terms of the advice contained within the Annex, unreasonable behaviour can be procedural i.e. relating to the process, or substantive i.e. relating to issues of substance arising from the merits of an appeal or application; the Annex cites examples of such behaviour. Procedural awards may be claimed for unreasonable behaviour occurring during proceedings which has caused unnecessary or wasted expense. Such an award is made where a party has disrupted or delayed the process for determining an application, appeal or call-in during proceedings. Examples of unreasonable behaviour that may lead to an award of costs include, the failure to determine an application within the statutory time limits, where it is clear that there was no substantive reason to justify delaying the determination of the application.
8. It is clear from the evidence that concerns were raised by the Council relating to the impact of the development on the setting of listed buildings as set out in the detailed consultation responses of the Built Heritage officer. In response to these concerns the Appellant submitted two amendments to the scheme which necessitated further consultation with the Council's Built Heritage officer. In addition, the Council's ecologist required a Phase 1 Habitat Survey to be submitted to assess any impact on reptiles and whether any mitigation measures would be required. The additional time taken to negotiate and attempt to resolve these issues resulted in the determination of the application being delayed to such an extent that the policy framework had changed due to the adoption of the LDP.
9. Based on the available evidence it appears unlikely that swifter action by the LPA and the Appellant in relation to built heritage and ecology matters would have led to a different eventual decision. The Council continued to object to the development due to its impact on the setting of listed buildings and the potential harm to ecology, thus, it appears likely that an appeal would have ensued even had the Council determined the application within the policy framework of the UDP.
10. Although there was a delay in determining the application, the evidence does not show that the Council caused deliberate delay. It is also beyond my jurisdiction to determine the appeal proposal under the old policy framework of the UDP. Therefore,

this matter does not amount to unreasonable behaviour within the meaning of the development management manual which would justify costs being awarded.

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Annex at Section 12 of the Development Management Manual, has not been demonstrated. A partial or full award of costs is therefore not justified in this case.

Richard Duggan

INSPECTOR

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Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 31/10/18

gan Siân Worden BA MCD DipLH
MRTPI

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 27/12/2018

Appeal Decision

Site visit made on 31/10/18

by Siân Worden BA MCD DipLH MRTPI

an Inspector appointed by the Welsh Ministers
Date: 27/12/2018

Appeal Ref: APP/T6850/A/18/3212313

**Site address: Land forming part of Rhallt Field, Rhallt Lane, Buttington,
Welshpool SY21 9JP**

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs E Turner against the decision of Powys County Council.
 - The application Ref P/2017/1266, dated 23 October 2017, was refused by notice dated 6 April 2018.
 - The development proposed is the erection of one detached private dwelling, formation of vehicular access and all associated works.
-

Decision

1. The appeal is dismissed.

Procedural matter

2. The application was in outline with all matters other than access reserved for later determination.

Main Issues

3. I consider that the main issue in this case is the effect of the proposed development on the open countryside.

Reasons

4. The appeal site is part of a field fronting Rhallt Lane, close to the canal and opposite a handful of cottages. The setting is generally rural although, on the other side of the canal is the Buttington Cross Enterprise Park where there are several large commercial units. The proposal is for a new dwelling with vehicular access and a garage.
5. The site is outside the settlement development boundary of Welshpool, identified in the adopted Powys Local Development Plan (LDP) and to which Policy SP5 applies. The small settlement of Buttington is located some distance to the east of the appeal site, separated from it by the canal, railway line and main road. In not being a recognised or named settlement which contains at least ten closely grouped dwellings,

the area immediately around the appeal site cannot be defined as a rural settlement under Policy SP5. It is thus classified as open countryside.

6. LDP Policy SP6 concerns the distribution of growth across the settlement hierarchy. It states that, in order to protect the open countryside, the majority of growth will be directed into defined sustainable settlements. Outside of these, as the proposal here is, strict control will be exercised over new development proposals.
7. This control is implemented mainly through LDP Policy H1 which, in the open countryside, only permits housing development which relates to a need for housing consistent with current national policy, mainly rural enterprise workers; relating to the conversion of rural buildings; or relating to the renovation of a former abandoned building. It is not the appellant's case that the objective of the proposed dwelling is to enable the future occupier to live at or close to their rural enterprise place of work. Neither would the proposed development be a conversion or renovation of an appropriate building.
8. In not meeting one of the criteria set out in the section of the policy relating to the open countryside, the proposed development would be contrary to LDP Policy H1. It would not, therefore, protect the open countryside.

Other matters

9. The appeal site is close to some employment opportunities at the nearby enterprise park. The village centre at Buttington is not particularly convenient to the site and, although there is a direct route along the canal, the leisure centre and other services on the edge of Welshpool are some way away. There is, however, a nearby bus stop. Overall, I do not consider that the proposed development would be in a particularly accessible location or that it would be unlikely to result in additional journeys by car. I have noted that the planning officer's opinion on the matter, as expressed in the committee report, differs from mine.
10. S38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise. Since it was adopted on 17 April 2018 the Powys LDP has replaced the Powys Unitary Development Plan (UDP). At the time the decision was made – the notice is dated 6 April 2018 – the UDP was the adopted development plan and it was appropriate to consider the proposed development against its policies. In its written statement the Council has reassessed the proposal in line with the up-to-date policies in the adopted LDP, as I have in reaching my decision. There is, therefore, an adopted plan in place; its policies are relevant and not outdated or superseded.
11. Planning Policy Wales (PPW) states that a plan-led approach is the most effective way to secure sustainable development through the planning system¹. The recently adopted LDP is thus a vehicle in itself for sustainable development. The advantages of the proposed development, including its location, that it would be for a local family wishing to raise their children here, and that it is not far beyond the settlement development boundary, do not amount to considerations which indicate that the proposed development should be determined otherwise than in accordance with the LDP.

¹ PPW edition 10 paragraph 1.17

12. The planning officer's main reason for recommending consent for the proposed development was that the Council did not have a five year supply of housing land. The LDP allocates housing sites to meet the needs forecast to arise during the plan period, in the case of Powys from 2011-2026. At the time of the LDP's adoption, just after the application had been refused, there was a five year supply of available land for housing development. That concern has therefore been removed.

Conclusion

13. The appeal site is outside of a settlement development boundary and thus in the open countryside. The proposed development would not be one of the limited types of development permitted in such locations and thus, in the terms of the LDP, would be harmful to the open countryside. That is reason in itself to refuse the proposal. I have taken all the matters raised into consideration but these are not sufficient to outweigh the harm which would be caused.
14. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.
15. For the reasons given above I conclude that the appeal should be dismissed.

Síân Worden

Inspector

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CYNGOR SIR POWYS COUNTY COUNCIL**PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE****17 January, 2019**

REPORT BY: Portfolio Holder Finance, Countryside and Transport
and Head of Leisure and Recreation

SUBJECT: Local Access Forum [LAF] – appointment of a
Council representative

REPORT FOR: Decision

1. Background

The functions of the Local Access Forum is to advise the Council, the Natural Resources Wales, the Welsh Government and other bodies exercising functions under Part I of the Countryside & Rights of Way Act 2000 [CROW Act], as to the improvement of public access to land in the area for the purposes of open-air recreation and the enjoyment of the area. These bodies must, by law, have regard to relevant advice given by the Forum.

Powys County Council is currently seeking the appointment of a Council representative (outside of the Brecon Beacons National Park), as required by s.94 and s.95 of the CROW Act.

The Council seeks to convene the Forum meetings at least three times a year, but not to exceed four meetings a year (including a site visit), at a time and place to be agreed by the Forum members. It is anticipated that site visits will take place where it is considered to be relevant and beneficial.

2. Areas of Work

The LAFs will advise upon aspects of open-air recreation in the area, including public rights of way, the right of access to open country, WG woodland estate, registered common land, parks and amenity areas. The Forum will consider areas of work put forward as business by the Council and Natural Resources Wales and by the LAF itself.

The LAF also recommends permissive access arrangements for the Glastir agri-environment scheme upon a submitted application.

A work programme will be provided to provide advice on specific projects, for which a big aspect will be to advise on the review of the Rights of Way Improvement Plan which is currently taking place. Specific advice that Countryside Services wishes advice on from the

LAF may also be required. The LAF's Terms of Reference are given in Appendix A.

3. Selection Process

It has been agreed that the selection of a Council representative should be nominated from the Planning, Rights of Way and Licencing Committee. It is not considered suitable for the portfolio holder to be specifically selected to represent the Council on the Local Access Forum, and in the interests of transparency and ensure there is no conflict of interest between advice received and any forthcoming decisions based on that advice.

4. Criteria for Selection for LAF members

The following is a list of criteria against which applications have been judged. However, applicants will not necessarily have to comply with all of the criteria to be successful.

Essential criteria

It is essential that a LAF member who will be appointed for three years will:

- a) be committed to the function of the Forum:
- b) be willing and able to play a full part in all aspects of a LAFs work - persons who are only willing or able to represent a narrow specific interest may not be suitable members;

Desirable criteria

It is desirable that a LAF member who will be appointed for three years will:

- a) have a wide range of experience of access and open-air recreation issues in the area;
- b) have experience of working on, and contributing to, similar Forums in the past;
- c) reside in, be particularly familiar with, or have any other interests especially relevant to, the area of the Forum;
- d) be able to network with a wide range of organisations and individuals, with an aim to disseminating the LAFs work
- e) be able to attend all meetings of the Forum (deputies will not be permitted).

- f) These are unpaid positions but Forum members will be able to claim reasonable expenses.

| Recommendation | Reason for recommendation |
|---|---|
| To appoint a member of the Planning, Taxi Licensing and Rights of Way Committee to the Local Access Forum for a period of three years. | To ensure that the Council is represented on the Local Access Forum. |

| | | | |
|-------------------------------|----------|-----------------------|----------|
| Relevant Policy (ies): | | | |
| Within Policy: | Y | Within Budget: | Y |

| | |
|----------------------------------|------------|
| Relevant Local Member(s): | N/A |
|----------------------------------|------------|

| | |
|---|-----------------------------|
| Person(s) To Implement Decision: | Mark Stafford-Tolley |
| Date By When Decision To Be Implemented: | 18 January, 2019 |

| |
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| Contact Officer: Mark Stafford-Tolley Tel: 01597 827677 Email: mark.stafford-tolley@powys.gov.uk |
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Terms of Reference

Title

1. The Local Access Forum shall be known as the Powys Local Access Forum (PLAF). The area of the Powys Local Access Forum is the land and water designated as Powys County Council (excluding the Brecon Beacons National Park Authority).

Roles and Responsibilities

2. The primary purpose of the PLAF is to provide statutory advice to Powys County Council (PCC), Natural Resources Wales (NRW), Welsh Government and others as appropriate as to the improvement of public access to land and water for the purposes of open-air recreation and the local public rights of way. Advice given should take account of land management, social, economic, environmental and educational interests.
3. The PLAF will fulfil this role by advising on issues of particular local relevance, including:
 - a. supporting the implementation of the right of access to open countryside;
 - b. maintaining and improving the public rights of way network; and
 - c. developing recreation and access strategies that cater for everyone.
4. The PLAF will work to:
 - a. develop a constructive and inclusive approach to the improvement of recreational access to the countryside;
 - b. respect local circumstances and different interests whilst operating within national guidance;
 - c. provide advice on issues of principle and good practice;
 - d. engage in constructive debate and seek consensus wherever possible; and
 - e. where consensus is not possible, make clear the nature of differing views, and suggest how they might be resolved.

Membership

5. The PLAF members will be appointed by PCC (the Appointing Authority) in accordance with the Countryside Access (Local Access Forums)(Wales) Regulations, 2001(The Regulations).
6. The membership will:
 - a. be balanced to avoid dominance by any single interest;
 - b. include users of local rights of way;
 - c. include owners and occupiers of access land or land where there are local rights of way;
 - d. represent a cross-section of interests in the area; and

- e. live or work within the area or have a sound knowledge of the area.
7. Members will be expected to:
- a. adhere to the sections relating to LAFs in the CROW Act and regulations made under the Act and these Terms of Reference;
 - b. show commitment to achieving the aims of the PLAF through constructive working with other members and organisations that it advises;
 - c. be able to devote the necessary time to attend meetings and to network outside meetings;
 - d. have sufficient experience of access to the countryside in the local area to be able to make an informed and constructive contribution to improving access provision; and
 - e. be capable of working with a wide range of interest groups.

Election of Chair and Deputy Chair

8. The Chair and Deputy Chair will be elected for a period of 12 months (using the system described in Regulation 12 of the Regulations*) at the first meeting of the PLAF. The first item of business to be conducted at the meeting following each 12 month period will be the election of the Chair and Deputy Chair.

Administration

Secretariat

9. The PLAF will have a Secretary appointed by the Appointing Authority who will be responsible for:
- a. providing support to the Chair of the Forum;
 - b. ensuring that the Forum is set up and run according to the CROW Act 2000, Countryside Access (Local Access Forums)(Wales) Regulations, 2001 and these Terms of Reference;
 - c. managing any resources dedicated to its work;
 - d. arranging and promoting meetings, including arranging the delivery of papers and information to Forum members and the public;
 - e. producing minutes of Forum meetings.
 - f. ensuring that confirmed PLAF minutes are presented on the PCC website;
 - g. publicising the work of the PLAF as far as is reasonably practicable.

Meetings

10. Meetings will be held at least three times a year with one site visit per year.

11. The Quorum for the Forum will be 5.
12. Meeting agendas will be drawn up by the Secretary in consultation with the Chair and Deputy Chair - although any member may suggest agenda items for consideration through the Chair.
13. Meetings will be advertised in advance and the minutes published on the PCC web site.
14. The Chair will invite observers/advisors to the meeting when appropriate.
15. Observers/advisors will be able to contribute to the proceedings at the discretion of the Chair.
16. One representative of Natural Resources Wales and any Council Officer will automatically have observer status.
17. If necessary, PLAF committees will be set up by the Chair after agreement with the members. The chairing, membership, and terms of reference of committees will be agreed by the Chair and members.
18. All meetings of the PLAF will be held in public. However, the person presiding, following a request from a member or members, may decide that the public should be excluded for particular items for reasons of personal privacy or commercial confidentiality.