

Planning, Taxi Licensing and Rights of Way Committee Report

Update Report

Application No:	P/2017/0134	Grid Ref:	316400.28 294538.45
Community Council:	Llandyssil	Valid Date:	Officer: 07/02/2017 Tamsin Law
Applicant:	Dolafon Gospel Hall Trust, Canal Close c/o Ivycroft Newtown Powys SY16 2HG		
Location:	Land adjacent to Abermule House, Abermule, Montgomery, Powys, SY15 6NH		
Proposal:	Full: Proposed residential development of 4 no. dwellings, new access, highways improvements and erection of new Church building (Place of Worship)		
Application Type:	Application for Full Planning Permission		

The reason for the update

Further information has been considered in relation to affordable housing and the agent has submitted additional information in relation to a Unilateral Undertaking.

Officer Appraisal

Affordable Housing

Since the publication of the report further assessment of policy HP5 – Residential Developments has been undertaken. Whilst the UDP requires a contribution of affordable housing on developments of 5 or more dwellings policy HP5 states the following;

‘On allocated sites for 5 or more houses, a proportion of affordable housing is provided in accordance with policy HP7.’

The housing development is on an allocated site which was allocated for 5 dwellings. Whilst only four dwellings are proposed as part of this development the policy requires that on allocated sites that there is provision of affordable housing. As such it is recommended that a condition is attached to any consent requiring the submission of a scheme to secure one affordable dwelling.

Unilateral Undertaking

The agent for the application has submitted a Unilateral Undertaking to provide the Community Council with a financial contribution. Upon further discussion with the agent this

was discussed at a recent Community Council meeting whereby this sum was discussed to provide improvements to the community centre.

In determining whether a Planning Obligation should be sought on any applications Officers must consider whether such an obligation is necessary; relevant to planning; directly related to the proposed development; fairly and reasonably related in scale and kind to the proposed development; and reasonable in all other respects.

Officers consider that the proposed development provides a substantial community benefit through the provision of a footpath from the site into Abermule. Whilst the developer was willing to provide this sum it is considered, in planning terms, not to be necessary to make the development acceptable. As such, Officers will not be recommending that a planning obligation is attached to any consent.

Recommendation

In light of the above, the application is considered to be in accordance with planning policy and is therefore recommended for approval subject to the following conditions.

Conditions

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans stamped as approved on XXXXX (drawing no's: QO26.1.3.100, QO26.1.3.103, QO26.1.3.104, QO26.1.3.105, QO26.1.3.106, QO26.1.3.107, QO26.1.3.115, QO26.1.3.116, QO26.1.3.117, QO26.1.3.118, QO26.1.3.123, QO26.1.3.125 and Preliminary Ecological Assessment (October 2016), construction Environmental Management Plan (January 2017), Flood Consequences Assessment (December 2016), Drainage Strategy (November 2016), Tree Report, Design and Access Statement (January 2017) and Planning Statement (January 2017)).
3. Prior to any works commencing on the development site detailed engineering drawings for all Highway Improvements as detailed on drawing numbers SK02 Rev A, SK03 Rev B, SK04 Rev C, SK05 Rev B, shall be submitted to and approved in writing by the Local Planning Authority. The Highway Improvements referred to shall include details of the access road within the site, new footway, forward visibility improvement, relocation of speed limit (the cost of which shall be met by the applicant), submission and approval of a Stage 1 / 2 Road Safety Audit and carriageway alterations on the B4368.
4. Prior to any works commencing on the development site, all Highway Improvements, referred to above, shall be fully completed to the written satisfaction of the Local Planning Authority.
5. Prior to the occupation of the dwelling any entrance gates shall be set back at least 10 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

6. The gradient of the access road shall be constructed so as not to exceed 1 in 30 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

7. No other works shall commence on site until the access has been constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.26 metres above ground level at the edge of the adjoining carriageway and 96 metres distant in an Easterly direction and 60 metres in a Westerly direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

8. Before any other development commences on site 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 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

9. Prior to the first beneficial use of the development, the off street parking bays and circulation areas as detailed on the approved drawing[s] shall be fully completed to the written satisfaction of the Local Planning Authority. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

10. Before any other development commences on site the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

11. Upon formation of the visibility splays as detailed in 7 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

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

13. Prior to the completion of the Highway Improvements, any entrance gates shall be set back at least 10 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

14. The gradient of the access road shall be constructed so as not to exceed 1 in 20 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

15. No other development shall commence on the agricultural access until the access has been constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.26 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

16. Before any other development commences the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

17. 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 10 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,

18. Before any other development commences any existing means of access shall be stopped up, in materials to be agreed in writing by the Local Planning Authority and this shall be retained for as long as the development is in existence.

19. The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and the scheme shall be implemented in accordance with the approved details before the development is first brought into use.

20. All works and ancillary operations which are audible at the site boundary shall be carried out only between the following hours:

- 0800-1800 hrs Monday to Friday
- 0800-1300 hrs Saturday
- At no time on Sundays and Bank Holidays

Deliveries to and removal of plant, equipment, machinery and waste from the site must also only take place within the permitted hours detailed above.

21. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning

Authority. The investigation and risk assessment must be undertaken by competent persons (*a contaminated land specialist with proven experience within the contaminated land industry*) and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of land affected by contamination: a guide for developers' 2012 .

Item (iii) above should not be submitted until written approval has been obtained from the Local Planning Authority for items (i) & (ii).

22. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990, The Contaminated Land (Wales) Regulations 2001 in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 1 has been received from the Local Planning Authority.

23. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority. The verification report contents must be agreed with the Local Planning Authority before commencement of the remediation scheme.

24. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a

remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

25. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the Local Planning Authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

26. The mitigation regarding hedgerows, watercourses, badgers, otters and white-clawed crayfish in Sections 4.3 and 4.4 of the Ecological Report by Turnstone Ecology dated October 2016 shall be adhered to and implemented in full unless otherwise agreed in writing with the LPA.

27. The recommendations regarding hedgerows, trees, bats, dormice, birds and reptiles identified in Sections 4.3 and 4.4 of the Ecological Report by Turnstone Ecology dated October 2016 shall be adhered to and implemented in full.

28. The Landscaping Scheme specifications and aftercare measures identified in the Landscape Plan shall be adhered to and implemented in full.

29. The Construction Environmental Management Plan (Turnstone Ecology, January 2017) submitted with the planning application shall be implemented as approved and maintained thereafter.

30. Prior to the commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.

31. The Tree and Hedgerow Protection Plan (Lingard Styles, 2016) in accordance with BS:5837:2012 submitted with the application shall be implemented as approved and maintained thereafter.

32. The finished floor levels for the two bungalows (Units A and B) which are closest to the River Mule must be at least 500mm above adjacent ground level.

33. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority.

The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of 1 dwelling;
- ii) the timing of the construction of the affordable dwelling and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable dwelling to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

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 interest of highway safety in accordance with Policy GP4 and TAN 18.
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19. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution
20. In order to protect the amenity of residents during construction in line with policy GP1.
21. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy DC15 of the Unitary Development Plan 2010.
22. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy DC15 of the Unitary Development Plan 2010.

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25. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy DC15 of the Unitary Development Plan 2010.
26. To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016
27. To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016
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29. To comply with Powys County Council's UDP Policies ENV3, ENV4, ENV5 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
30. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
31. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016
32. To ensure the development is in accordance with policy SP14 of the Powys UDP and TAN 15.
33. To ensure the development provides affordable housing in accordance with policy HP5 and TAN2 of the Powys UDP.

Informative Notes

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.

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

It is an offence for any person to:

- Intentionally kill, injure or take any dormice.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a dormouse uses for shelter or protection.
- Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a dormouse is an offence if a licence has not been obtained from Natural Resources Wales. If a dormouse is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.