

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2017/0111	Grid Ref:	327914.26, 293690.04
Community Council:	Churchstoke	Valid Date:	Officer: 13/02/2017 Bryn Pryce
Applicant:	Mr P Delves, Crosslikely, Montgomeryshire Natural Spring Water Co, Churchstoke, Montgomery, Powys SY15 6AR		
Location:	Montgomeryshire Natural Spring Water Co, Crosslikely, Churchstoke, Montgomery Powys SY15 6AR		
Proposal:	Section 73 application to vary condition 2 of permission P/2015/0180 relating to the approved plans		
Application Type:	Application for Removal or Variation of a Condition		

The reason for Committee determination

This application has been called in to planning committee by the Local County Councillor.

Site Location and Description

This application is in respect of a variation to condition 2 of planning permission P/2015/0180. The variation relates to the increase in height of the building approved under this application by 3 metres at the bottling plant business in Churchstoke, Powys. The business, Montgomeryshire Natural Spring Water Co., is based on a site to the rear of the Harry Tuffins Supermarket on the eastern edge of the settlement and is accessed off the A489.

The original proposal incorporated an extension of the existing building to provide office space, storage and the extension of the water bottling plant. In addition, the development involves the provision of additional water storage tanks, a solar panel array located on the roofs of the buildings, access improvements, landscaping works, and flood attenuation measures. This section 73 application also proposes to amend the height of the proposed extension to raise the roof of the building by three metres in height. All other elements remain the same from the consented application

Consultee Response

Churchstoke Community Council

Correspondence received 1st March 2017

Council objects very strongly to this application for reasons:

- a) The scale of the proposals is grossly out of proportion to the immediate environment.
- b) The adverse visual impact of such a large-scale development on the neighbouring valley and from nearby areas of outstanding natural beauty.

Correspondence received 20th May 2017

CCC notes the reduction in height from the previous application for variation in February 2017, but has concerns on the visual impact and objects to the application for the same previous reasons:

- a) The scale of the proposal is grossly out of proportion to the immediate environment
- b) The adverse visual impact of such a large-scale development on the neighbouring valley and from nearby areas of outstanding natural beauty.

PCC - Highways

Correspondence received 25th May 2017

Does not wish to comment on the application.

PCC - Building Control

Correspondence received 14th February 2017

The proposed development will require Building Regulations approval. Please contact me on 07876216734 or paul.metcalf@powys.gov.uk to discuss.

Wales & West Utilities

Correspondence received 14th February 2017

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

Correspondence received 4th May 2017

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

Severn Trent

Correspondence received 2nd March 2017

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

Correspondence received 8th May 2017

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

Cllr Michael J Jones

Correspondence received 26th February 2017

I wish to call in the above application for Committee determination due to the visual impact of the very large increase in the size of the building.

PCC - Environmental Health

Correspondence received 2nd March 2017

I have no objection to the above application.

NRW

Correspondence received 3rd March 2017

Diolch am ymgynghori gyda Cyfoeth Naturiol Cymru ynglŷn a'r cais uchod.

Rydym wedi adolygu'r cais cynllunio gyflwynwyd i ni, ac o'r wybodaeth a ddarparwyd nid ydym o'r farn bod y datblygiad arfaethedig yn effeithio ar fater a restrwyd ar ein Rhestr Wirio, *Cyfoeth Naturiol Cymru ac Ymgynghoriadau Cynllunio (Mawrth 2015)*: <https://naturalresources.wales/planning-and-development/planning-and-development/?lang=cy>. Felly, nid oes gennym unrhyw sylwadau i'w gwneud ar y datblygiad arfaethedig.

Sylwer nad yw ein penderfyniad i beidio â rhoi sylwadau yn golygu na allai bod yna bosibilrwydd i'r datblygiad arfaethedig effeithio ar fuddiannau eraill, gan gynnwys buddiannau amgylcheddol o bwysigrwydd lleol.

Dylai'r ymgeisydd gael ei hysbysu mai hwy, yn ogystal â chaniatâd cynllunio, sydd yn gyfrifol am sicrhâi bod ganddynt yr holl drwyddedau/caniatadau sy'n berthnasol i'w datblygiad.

Hyderwn fod y sylwadau uchod o gymorth, fodd bynnag, os oes gennych unrhyw ymholiadau, mae croeso i chi gysylltu â mi.

Cofion Cynnes

Dear Claire,

Thank you for consulting Natural Resources Wales on the above application.

We have reviewed the planning application submitted to us, and from the information provided we do not consider that the proposed development affects a matter listed on our Checklist, *Natural Resources Wales and Planning Consultations* (March 2015): <https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>. We therefore do not have any comment to make on the proposed development.

Please note that our decision not to comment does 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.

We trust that the above comments are of assistance however, should you have any queries, please do not hesitate to contact me.

PCC – Ecology

Correspondence received 27th July 2017

Thank you for consulting me with regard to Application P/2017/0111 which concerns a Section 73 application to vary condition 2 of permission P/2015/0180 relating to the approved plans.

The proposed amendments involve an increase in the height of the building approved under planning permission P/2015/0180 – the modified store room will be approximately 16.15m higher than the previously approved detail.

Having reviewed the proposed plans and the nature of the amendments proposed it is considered that the proposed changes would not result in any negative impacts to biodiversity, I therefore have no objections to the proposed development.

CPAT

Correspondence received 14th February 2017

Thank you for the consultation on this variation. I can confirm that the proposals will have no archaeological impact.

Correspondence received 3rd May 2017

Thank you for the notice of the amended details for this application. I can confirm the amendments do not change our previous advice ie. no archaeological impact.

Representations

A public site notice was displayed at the site for a period of 21 days. One objection letter has been received in response. The comments raised are summarised below:

- Scale, Height
- Lack of suitable supporting infrastructure
- Visual amenity effect on local area.

Planning History

P/2015/0180 - Full: Erection of a new office extension comprising three levels. Erection extension to provide storage area. Erection of a covered loading bay and bottling plant extension, Valve room and water storage tanks. Installation of photovoltaic panels (part retrospective). Formation of new onsite vehicular access road. Formation of associated hard and soft landscaping / paved areas and engineering operations to form pond, with all other associated works – Conditional Consent

P/2012/0004 - Erection of an extension to provide delivery canopy and installation of internal goods lift – Conditional Consent

P/2010/0187 - Erection of an open sided canopy roof to existing articulated lorry loading area (service yard) – Conditional Consent

M/2007/0761 - Erection of 12 no. water storage tanks – Conditional Consent

P/2008/1016 - Temporary permission for the siting of six caravans for residential use (retrospective) – Refused

M/2004/1294 - Installation of 10 water storage tanks & associated supporting steel work – Conditional Consent

M/2002/0646 - Erection of an extension for new warehouse – Conditional Consent

Principal Planning Constraints

Public Right of Way

Historic Landscapes Register 210/28/1,1

Principal Planning Policies

National Planning Policy

Planning Policy Wales (9th Edition, 2016)

Technical Advice Note (TAN) 5: Nature, Conservation and Planning (2009)
Technical Advice Note (TAN) 8: Renewable Energy (2005)
Technical Advice Note (TAN) 11: Noise (2016)
Technical Advice Note (TAN) 12: Design (2016)
Technical Advice Note (TAN) 18: Transport (2007)
Technical Advice Note (TAN) 23: Economic Development (2014)

Local Planning Policies

Powys Unitary Development Plan 2010

SP4 – Economic and Employment Developments
SP12 – Energy Conservation and Generation
GP1 – Development Control
GP3 – Design and Energy Conservation
GP4 – Highway and Parking Requirements
ENV1 – Agricultural Land
ENV2 – Safeguarding the Landscape
ENV3 – Safeguarding Biodiversity & Natural Habitats
ENV4 – Internally Important Sites
ENV5 – Nationally Important Sites
ENV6 – Sites of Regional & Local Importance
ENV7 – Protected Species
ENV11 – Development in Conservation Areas
ENV14 – Listed Buildings
ENV16 – Landscapes, Parks and Gardens of Special Historic Interest
ENV17 – Ancient Monuments & Archaeological Sites
EC1 – Business, Industrial & Commercial Developments
EC2 – Business Sites Hierarchy
EC4 – Local Employment Sites Within or Adjoining Settlements
EC5 – Expansion of Existing Employment Sites
RL4 - Outdoor Activity and Pony Trekking Centres
RL6 - Rights of Way and Access to the Countryside
E7 – Solar Technologies
DC1 - Access by Disabled Persons
DC3 – External Lighting
DC13 – Surface Water Drainage

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

Officer Appraisal

Section 38 (6) Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Introduction

This application site was subject to a previous planning application granted conditional consent under planning application number P/2015/0180. The original proposal was for the erection of a new office extension comprising three levels. Erection of an extension to provide storage area. Erection of a covered loading bay and bottling plant extension, valve room and water storage tanks. Installation of photovoltaic panels (part retrospective). Formation of new onsite vehicular access road. Formation of associated hard and soft landscaping / paved areas and engineering operations to form pond, with all other associated works.

This section 73 planning application relates to the same development, however seeks a variation to condition 2 in relation to the height of the proposed building extension. Originally the application submitted was to raise the height of the approved building extension ridge by 16 metres in height. Officers considered this to be unacceptable and therefore have sought amended plans. The height of the roof of the building is now proposed to be increased by 3 metres in height. All other elements of the proposal remain the same as the original approved consent.

Principle of Development

The principle of this proposal has been considered against policies EC1, EC2, EC4 and EC5 of the Powys Unitary Development Plan 2010 in the previous application (P/2015/0180) where consent was granted. This application considers a change in design to that of the approved development via the section 73 process. In considering these changes regard will be given to other policies of the plan in respect of design, scale, landscape impact and amenity.

Officers consider that in principle the proposed development is considered to be acceptable given the previous extant approval of the development on this site.

Scale, Design and Appearance

Policy GP3 of the Powys Unitary Development Plan seeks to ensure that development proposals are of an appropriate design, scale, layout and of materials that shall complement or where possible enhance the character of the surrounding area.

This section 73 planning application seeks to amend the design of the proposed building extension by raising the roof by a further 3 metres in height. The massing of the building and footprint are to remain the same as that approved as part of the previous application. All other elements of the proposed development at this site are to remain as approved under P/2015/0180.

Initially the proposal was submitted to raise the height of the consented building by a further 16 metres in order to accommodate a racking and crane system to allow easier and more efficient storage of bottles front the plant. Officers raised significant concern over the proposal and amended plans were submitted reducing the proposed height of the building to an increase of 3 metres on the previously approved ridge height. The building is to measure a total height to the ridge of 14.5 metres in height.

Having considered the proposed development and increase in the ridge height of the proposed building carefully, officers are satisfied that the proposed increase in height of the ridge previously approved would not have a significant adverse impact in terms of scale and height of the building with the proposed materials and design of the building being complementary to the surrounding buildings. In light of the above, it is considered that the proposed development fundamentally complies with policy GP1, GP3 and ENV2 of the Powys Unitary Development Plan 2010.

Highways Safety and Movement

The proposal seeks to utilise an existing access to serve the site onto the A489. A new roadway will be created to serve the extended building and additional parking areas are also proposed in accordance with the standards set out in the CSS All Wales Parking Guidelines.

As part of this application process the highways authority have been consulted however, they did not wish to comment on the proposal. The proposed plans remain the same as the original application (P/2015/0180) in respect of highways access and parking facilities and therefore there are no further comments to add from the highways perspective. Conditions were attached to the original consent in relation to the provision of parking spaces and visibility splays and officer consider it necessary to include these conditions upon any grant of consent for this section 73 application.

In light of the above, officer consider that the proposed variation in design will not have an unacceptable impact upon highway safety and therefore complies with policy GP4 of the Powys Unitary Development Plan 2010.

Ecology and Biodiversity

As part of this application process the county ecologist has been consulted and has raised no objection to the proposed development. Officers questioned the suitability of the ecological information provided submitted with this application due to the time elapsed since the submission of the original application. The same ecological survey reports have been submitted in support of this application. However, having consulted our ecologist on this matter the officer is satisfied that the ecological report is suitable and still valid for this application. The ecologist is satisfied that the proposed amendments would not result in any negative impacts to biodiversity.

In light of the above, officers are satisfied that the proposed development subject to the inclusion of conditions as per the original consent that the proposal fundamentally complies with ENV7 of the Powys Unitary Development Plan 2010.

Residential Amenity

It is noted that the development is located within 150 metres of residential properties. However, it is also noted that there are intervening uses between the application site and the dwellings to the north of the site including a supermarket, fuel station and an A class highway. Dwellings to the east and west of the site are also located adjoining the A class highway. Dwellings to the south of the site are located in excess of 900 metres from the application site. Taking into account that the proposed development is an increase in height of the previously approved building extension to an existing use as well as noting that the

Environmental Protection Officer does not raise any concerns in respect of this development, it is considered that the scheme is unlikely to give rise to any increased significant adverse amenity issues for these residential properties.

It is noted that the previously approved building is large in scale and the increase in height increase its scale having taken into account the overall height of the proposed building with the topography of the land, intervening buildings and the location of the closest dwellings, it is not considered that the proposal would be overbearing on residential amenity.

It is therefore considered that the proposal accords with the principle of GP1 with regard to residential amenity.

Visual Amenity, Design and Landscape Impact

The proposed variation to the approved design would result in an increase of the ridge height of the approved building by 3 metres. Although the approved building extension is of a significant scale, officers consider that the increase in the height of this building by 3 metres is not an increase that would result in a significantly different appearance and scale of the previously approved building and would not result in any significant increased adverse impact upon the visual amenity of the area. The design of the proposed building remains the same with further details of any external cladding to be secured via condition upon any grant of consent.

The site falls within the Church Stoke visual and sensory aspect area in Landmap which is categorised as having a low scenic quality, integrity and character. It is described as a linear settlement of no particular scenic quality and has an overall evaluation of low.

The site is located within the Vale of Montgomery Landscape of Outstanding Historic Interest, which although not a statutory designation, is a material consideration in the determination process. The significance of the area relates to the high concentration of defensive works which provide evidence of the historical struggle for territory typical of Welsh history. The proposal is not considered to directly impact upon any recorded archaeology, which has been confirmed by CPAT, or unacceptably impact on the setting of any features.

It is noted that the development would be visible from sections of the Kerry Ridgeway and Offas Dyke long distance trails as well as from Todleth and Corndon Hills and the Shropshire Hills AONB. However, given the distances between these receptor points and the application site, and the fact that the proposal relates to an increase in height to of an extension to an existing use of land on the edge of the settlement, it is not considered that the development would be unduly prominent in the landscape or would be detrimental to the enjoyment of these paths or areas.

In light of the above, officers consider that the proposed variation of design of the extension building fundamentally complies with policies ENV2, 11, 16 and 17 of the Powys Unitary Development Plan 2010 and will not be unacceptably detrimental to these interest.

Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the

application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision. It is considered that the development would contribute to the economy of the area which is benefit to maintaining the Welsh language and culture.

In the 2011 census the Churchstoke Ward reported that 4.1% of the population spoke Welsh. This is an increase from the 2001 census which stated that 1.5% of the population of Churchstoke spoke Welsh. The proposed development in this settlement is not considered to have a detrimental impact on the cultural or linguistic vitality of the area.

Other Legislative Considerations

Crime and Disorder Act 1998

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

Equality Act 2010

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

Having due regard to advancing equality involves:

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

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

Wellbeing of Future Generations (Wales) Act 2015

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

Recommendation

The proposed variation to the design of the extension building is considered to comply with local and national policy. Whilst the proposed increased height of the building will result in a larger scale building, officers consider that the proposal is acceptable in terms of visual amenity and residential amenity and will not result in a significant adverse impact upon the local area or wider landscape. There are no implications in terms of highway safety and ecology different to that approved under the original consent and is considered that the conditions are still relevant. It is therefore recommended that the application be granted subject to the conditions as below.

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 received on 13th February 2017 (drawing no's: 01B) amended plans received 3rd May 2017 (Drawing No: 20 A) drawing received 29th June 2017 (Drawing no: 2854 05 15 09 02 A) and plans received 8th August 2017 (Drawing no's: 02B, 03C, 04B, 06A, 07A).
3. All works shall only take place in accordance with the measures detailed in section 5.3 of the General Ecological Appraisal undertaken by Lingard Styles dated July 2015 and referenced 2854 with consultation taking place with Natural Resources Wales in the event of any unforeseen situation involving protected species.
4. All planting, seeding or turfing comprised in the approved details of landscaping and including the relocating of the hedgerow shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year defects period.
5. Prior to the cladding of the exterior of the buildings hereby approved, the colour of the external cladding of the buildings shall be submitted to and approved in writing by the Local Planning Authority.
6. The solar panels shall have a dark coloured non-reflective surface and the edging of the panels should be of a black or dark grey colour. All solar panels must be set flush to the roof plane on which they are sited.

7. No development approved by this permission shall be commenced until a scheme for the provision and implementation of surface water capacity during 1 in 100 year storm conditions (plus allowances for climate change) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.
8. Prior to the first use of the buildings hereby approved, the parking spaces identified on the approved drawings shall be provided and shall remain available for use by employees and visitors to the site in perpetuity.
9. Prior to the commencement of development details of visibility splays from the existing access (serving Tuffins) into the application site shall be submitted to and agreed in writing by the Local Planning Authority. The agreed splay shall be fully achieved prior to the first use of the buildings hereby approved and must remain free from obstruction in perpetuity.
10. Prior to the commencement of development a scheme for any external lighting of the site shall be submitted to and agreed in writing by the Local Planning Authority. All external lighting shall adhere to the agreed scheme in perpetuity.

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 the protection and preservation of biodiversity in accordance with policy ENV3 and ENV7 of the Powys Unitary Development Plan.
4. To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with policies GP1 and ENV2 of the Powys Unitary Development Plan.
5. In order to minimise impact in accordance with policies GP1 and EC1 of the Powys Unitary Development Plan.
6. In order to minimise visual impact in accordance with policies GP1 and ENV2 of the Powys Unitary Development Plan.
7. To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal in accordance with policies GP1 and DC13 of the Powys Unitary Development Plan.
8. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
9. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.

10. In order to minimise impact in accordance with policies GP1 and DC3 of the Powys Unitary Development Plan.

Case Officer: Bryn Pryce- Planning Officer
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