

## Planning, Taxi Licensing and Rights of Way Committee Report

**Application No:** P/2017/0647

**Grid Ref:** 324016.07  
308909.80

**Community Council:** Welshpool

**Valid Date:** 14/06/2017  
**Officer:** Rachel Mulholland

**Applicant:** Mr & Mrs Roberts, Land forming part of Rhallt Field, Rhallt Lane, Buttington, Welshpool, SY21 9JP.

**Location:** Land forming part of Rhallt Field, Rhallt Lane, Buttington, Welshpool, SY21 9JP.

**Proposal:** Erection of a dwelling and detached garage, formation of vehicular access and all associated works (with all matters reserved).

**Application Type:** Application for Outline Planning Permission.

### The reason for Committee Determination

The application is to be determined by planning committee as it represents a departure from the development plan and is recommended for approval.

### Site Location and Description

The application site lies within the open countryside as defined by the Powys Unitary Development Plan (2010). It is located northwest of Welshpool approximately 600 metres from the designated settlement boundary for Welshpool and approximately 120 metres north of the Buttington Cross Enterprise Park. The site is to be accessed by a new access point off the county highway (U2209) to the south. The nearest neighbouring residential properties are located approximately 18 metres to the southeast. The site has neighbouring dwellings to the southeast with agricultural fields surrounding.

This application represents a departure from the current Unitary Development Plan and seeks outline consent for the erection of a dwelling and detached garage, formation of vehicular access and all associated works. This outline application is made with all matters reserved. An indicative layout of the site and scale of the dwelling proposed are given.

### Consultee Response

Welshpool Town Council

*Correspondence received 29<sup>th</sup> June 2017*

The Committee supports this application.

PCC - Highways

*Correspondence received 10<sup>th</sup> August 2017*

The County Council as Highway Authority for the County Unclassified Highway, U2209

Wish the following recommendations/Observations be applied

Recommendations/Observations

HC1 Prior to the occupation of any dwelling any entrance gates shall be set back at least 5.5 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.

In the interests of highway safety.

HC2 The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 5.5 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.

HC3 The centre line of the first 5.5 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

HC4 Prior to the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 5.5 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 6 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway and 2.4 metres distant from the edge of the adjoining carriageway and 43 metres in each direction. 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.

HC7 Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 5.5 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

HC8 Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom excluding any garage space provided together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas

shall be retained for their designated use for as long as the development hereby permitted remains in existence.

HC11 Prior to the commencement of any constructions works on any plot provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

HC12 The width of the access carriageway, constructed as Condition HC7 above, shall be not less than 5.5 metres for a minimum distance of 5.5 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

HC29 All surface water run-off is to be collected and discharged via a piped system to a soakaway located within the site no less than 6 metres from the highway. This system shall be retained and maintained for as long as the development remains in existence.

HC30 Upon formation of the visibility splays as detailed in HC4 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

HC32 No storm water drainage from the site shall be allowed to discharge onto the county highway.

In the interests of highway safety.

#### PCC – Building Control

*Correspondence received 19<sup>th</sup> June 2017*

Building Regulations application required.

#### Wales & West Utilities

*Correspondence received 22<sup>nd</sup> June 2017*

Wales & West Utilities have been made aware of a planning application on 19.06.2017, advising us of the proposals at:

Rhallt Field, Rhallt Lane, Buttington, Welshpool, SY21 9JP

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 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.

You must not build over any of our plant or enclose our apparatus.

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

#### Severn Trent Water

*Correspondence received 21<sup>st</sup> June 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 Francesca Jump

*Correspondence received 22<sup>nd</sup> June 2017*

As local member for this ward I fully support this application. I consider that the application site is situated within the community of Buttington. Access to the site is via Rhallt Lane which is very narrow and the visibility is poor with no passing places. I have had, in the past, complaints/concerns from local residents about difficulties in negotiating this lane. The removal of part of the hedgerow at the entrance to the application site and the visibility splay required by Highways will help to mitigate this problem.

I would like to call in this application.

#### PCC – Environmental Health

*Correspondence received 26<sup>th</sup> June 2017*

I will need the foul drainage details and specifications for the proposed development including the percolation test result, and confirmation that the trial holes are open for inspection.

I cannot currently comment on the application as there is insufficient information relating to foul drainage.

*Following the submission of percolation test results from a previous application on the site the Environmental Health Officer provided the following additional comments:*

*Correspondence received 29<sup>th</sup> June 2017*

If the size and position of the soakaway are the same, I have no objection to the application.

PCC – Ecologist

*Correspondence received 21<sup>st</sup> July 2017*

Thank you for consulting me with regards to planning application reference P/2017/0647 which concerns an Outline application for the Erection of a dwelling and detached garage, formation of vehicular access and all associated works

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

The data search identified 75 record of protected and priority species within 500m of the proposed development, no records were for the site itself. Records identified within 500m of the site included floating water-plantain, otter and bat species.

The following statutory designated sites are present within 500m of the proposed development:

- Montgomery Canal SAC/SSSI

These designated sites are located approximately 60m south-east of the site of the proposed development, given the proximity of the proposed development to the Montgomery Canal SAC the potential for the construction and operation phases of the development to result in a Likely Significant Effect to the Montgomery Canal SAC and/or it's associated features has been considered.

Having reviewed the information provided by the applicant it has been determined that the proposed development would not result in a likely significant effect to the River Wye SAC and/or it's associated features – I have attached a copy of the Screening Assessment for your records.

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

An Extended Phase 1 Habitat Survey was undertaken by Arbor Vitae Environment in May 2017. The survey considered the ecological value of the habitats present and affected by the proposed development, potential for protected species to be present and the need for further surveys and the potential for the proposed development to impact designated sites and or their associated features.

The survey identified that the site of the proposed development is an area of improved grassland, a habitat of low ecological value. The site is bounded by native mixed species hedgerow with areas of hedgerow trees.

No evidence of protected or priority species was found during the survey, whilst otter had been recorded within 60m of the proposed development the site was found to have no suitable features present to support resting or breeding otter and survey concluded that otter would be unlikely to use the site. The hedgerow/hedgerow trees bounding the site were considered to have potential to be used by nesting birds, however no nests were found during the survey.

The ecological survey was identified as qualifying as an important hedgerow as defined by the Hedgerow Regulations 1997, species rich native hedgerows are also identified as Biodiversity Action Plan habitats and are listed as habitats of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales. The ecology report also identifies that the presence of a relic woodland flora enhances the hedgerow's ecological significance.

Hedgerows are listed as a "habitat of principal importance for the purposes of conserving biodiversity" as identified in on Section 7 of the Environment (Wales) Act 2016, and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi. Hedgerows and linear tree features are also included in the Powys LBAP under the Linear Habitats Action Plan – 'Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value'. Powys UDP Policy ENV2 states that

'Proposals which are acceptable in principal should:

3. Seek to conserve native woodlands, trees and hedgerows'

Where impacts to hedgerows or trees are identified an appropriate compensation strategy will be required, it is noted that the submitted plans indicate that a new hedgerow will be planted to the rear of the new visibility whilst the intention to provide compensation for the loss of hedgerow is welcomed given the identified ecological value of the hedgerow currently present it is recommended that consideration is given to translocation of the existing hedgerow – this would enable the hedgerow and associated ground flora to be retained, if this is not considered possible at this location an appropriate replacement hedgerow planting scheme would need to be identified – details of the location, length and species as well as an appropriate aftercare scheme will need to be identified – species used will need to be native and reflect the hedgerows lost as a result of the development. It is recommended that a detailed hedgerow realignment scheme is secured through an appropriately worded condition.

Whilst it is acknowledged that the submitted plans are indicative at this stage and that further detailed design will be provided as reserved matters it is noted that the proposed plans indicate the provision of landscaping including what appears to be some tree planting as part of the proposed development. The provision of landscaping is welcomed, it is recommended that species used in landscaping are native (in accordance with UDP policy GP1) this would also serve to provide biodiversity enhancements in accordance with the requirements of Section 6 of the Environment (Wales) Act 2016. It is recommended that a detailed landscaping scheme is secured through an appropriately worded condition.

Given the rural location of the proposed development careful consideration will need to be given to any proposed external lighting design within the detailed design of the development to minimise impacts to nocturnal wildlife commuting and foraging in the local area – a number records for bat species were identified in local area and the Extended Phase 1 Survey report identifies that external lighting should be designed to minimise illumination of the roadside tree line and hedgerow. It is recommended that a planning condition securing a wildlife sensitive lighting scheme is secured through an appropriately worded condition.

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

The development shall be carried out strictly in accordance with the Recommendations identified in Section 6 of the Extended Phase 1 Habitat Survey Report produced by Arbor Vitae Environment and maintained thereafter unless otherwise agreed in writing by the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

Prior to the commencement of development a detailed method statement for the realignment of the hedgerow which bounds the site along Rhallt Lane shall be submitted to and approved in writing by the local planning authority. The method statement shall also include a timetable for the proposed works and all realignment works shall take place in accordance with the approved details.

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of 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 the commencement of the development a Landscaping and Management Plan shall be submitted to and agreed with the Local Planning Authority and shall be implemented in the first planting season of the following occupation of the development. The Plan shall include the use of native species, details of the planting specification – the species, sizes and planting densities – and a timetable for implementation and future management to ensure good establishment and long-term retention

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

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

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3, ENV5 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

In addition I recommend inclusion of the following Informative:

Birds - Wildlife and Countryside Act 1981 (as amended)

The site of the proposed tree works is considered to have potential to support nesting birds during the breeding season. All nesting birds, their nests, eggs and young are protected under the Wildlife and Countryside Act 1981 (as amended).

It is therefore 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.

PCC – Built Heritage

*Correspondence received 25<sup>th</sup> July 2017*

Thank you for consulting me on the above application.

The proposal is for outline consent with all matters reserved on land adjacent to a number of listed buildings namely;

Bridge 115 over the Montgomeryshire Canal Cadw ID 16752 included on the statutory list on 29/02/1996

Buttington Limekilns Cadw ID 16753 included on the statutory list on 29/02/1996

Mount Pleasant Cadw ID 16754 included on the statutory list on 29/02/1996

I am mindful of the advice in Sections 16 and 66 of the Planning (Listed Buildings and Conservation areas) Act 1990, which require authorities considering applications for



planning permission or listed building consent for works which affect a listed building to have special regard to certain matters, including the desirability of preserving the setting of the building.

However, I would also refer to more recent guidance in paragraph 6.5.11 of Planning Policy Wales 9th edition 2016 which states, “Where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.”

The adopted document Conservation Principles prepared by Cadw in paragraph 5.4 advises that when considering change, public authorities will give due importance of the heritage values of a site when considering the sustainability of proposals submitted to them.

Paragraph 39 states Changes which would harm the heritage values of an historic asset will be unacceptable unless:

- a. the changes are demonstrably necessary either to make that asset sustainable, or to meet an overriding public policy objective or need; and
- b. there is no reasonably practicable alternative means of doing so without harm; and
- c. that harm has been reduced to the minimum consistent with achieving the objective; and
- d. it has been demonstrated that the predicted benefit decisively outweighs the harm to the values of the asset, considering;
  - its comparative significance;
  - the impact on that significance; and
  - the benefits to the asset itself and/or the wider community or society as a whole.

The historic environment is defined in the document as an environment made up of individual historic features, archaeological sites and historic buildings as well as the landscapes in which they are found. Any part of the historic environment to which people have given a distinctive historical association or identity is considered here to be an historic asset. The document continues with the following advice on page 15. Every reasonable effort should be made to eliminate or minimize adverse impacts on historic assets. Ultimately, however, it may be necessary to balance the benefit of the proposed change against the harm to the asset. If so, the weight given to heritage values should be proportionate to the importance of the assets and the impact of the change upon them. The historic environment is constantly changing, but each significant part of it represents a finite resource. If it is not sustained, its heritage values will be eroded or lost. In addition, its potential to give distinctiveness, meaning and quality to the places in which people live, and provide people with a sense of continuity and a source of identity will be diminished. The historic environment is a social and economic asset and a cultural resource for learning and enjoyment.

“Conservation principles” establishes Values which should be attributed to heritage assets including;

- Evidential Value,
- Historical Value,
- Aesthetic Value,

- Communal value.

Conservation Principles identifies principles that have to be addressed when considering the above values.

#### Evidential Value

This derives from those elements of an historic asset that can provide evidence about past human activity.

The application site is currently steeply sloping grassland.

The listed canal bridge and the limekilns are evidently linked to the lime kilns that were erected adjacent to the Montgomery Canal. The unlisted properties opposite the site are called Canal Cottages and presumably associated with the canal.

#### Historical Value

An historic asset might illustrate a particular aspect of past life or it may be associated with a notable family, person, event or movement. These illustrative or associated values of an historic asset may be less tangible than its evidential value but will often connect past people, events and aspects of life with the present and are not so easily diminished by change as evidential values and are harmed only to the extent that adaption has obliterated them or concealed them.

The site appears to have been undeveloped for some time as the Historic Environment Record for the area identifies the site or adjacent to the site as being part of a medieval field system. (PRN64692)

#### Aesthetic Value

This derives from the way in which people draw sensory and intellectual stimulation from an historic asset through its form, external appearance or setting.

The site is an undeveloped field in close proximity to the Montgomeryshire Canal and the canal and its associated historic assets are a valuable academic resource relating to the history of transport and agricultural improvement of this part of Montgomeryshire, while its setting and appearance evoke a sense of the past.

#### Communal Value

The third principle contained within Conservation Principles is that heritage assets are a shared resource, valued by people as part of their cultural and natural heritage, and gives distinctiveness, meaning and quality to the places where we live providing a sense of continuity and a source of identity. The Conservation Principles identify heritage assets as having the potential to give distinctiveness, meaning and quality to the places in which people live, and provide people with a sense of continuity and a source of identity will be diminished. The historic environment is a social and economic asset and a cultural resource for learning and enjoyment.

The canal and its towpath can be accessed by visitors to the canal and the towpath is a leisure route for locals and tourists alike. The limekilns are available to view from the exterior adjacent to a car park where the canal a bridge and the lime kilns form an interesting collection of canal related structures available for the public to visit.

Cadw have prepared guidance on the setting of historic assets to accompany TAN24 issued on 31 May. The guidance provides advice on how to assess the setting of listed buildings could be referred to, with the caveat that there may potentially be changes as a result of the consultation process. In addition to advice on how to assess the visual setting of listed buildings, advice on less tangible elements, including sensory perceptions such as noise and smell are included in the guidance.

The document advises that “Setting is the surroundings in which a historic asset is understood, experienced and appreciated, embracing present and past relationships to the surrounding landscape.....The setting of a historic asset is not fixed and can change through time as the asset and its surroundings evolve. These changes may have a negative impact on the significance of an asset; for example, the loss of the surrounding physical elements that allow an asset to be understood, or the introduction of an adjacent new development that has a major visual impact. But changes can also have a positive impact that may enhance the setting, such as the removal of traffic from part of a historic town, or the opening up of views, or the return of a sense of enclosure to sites where it has been lost”

The document provides advice on how to assess the setting.

This section outlines the general principles that both assessors and decision makers should consider when assessing the impact of a proposed change or development on the setting of historic assets. There are four stages.

Stage 1: Identify the historic assets that might be affected by a proposed change or development and their significance.

Stage 2: Define and analyse the settings to understand how they contribute to the ways in which the historic assets are understood, appreciated and experienced.

Stage 3: Evaluate the potential impact of a proposed change or development on those settings.

Stage 4: Consider options to mitigate the potential impact of a proposed change or development on those settings.

The listed canal bridge and lime kilns are set at a lower level than the application site. The steeply sloping field to which the application relates means that the proposed dwelling will be elevated above the canal.

The site is on lower ground than Mount Pleasant and from the public road that serves Mount Pleasant the new dwelling and the listed building will be both visible from a single viewpoint. However the proposed new dwelling will be roughly associated with the Canal Cottages by virtue of their proximity.

The proposed access requirements require a large proportion of the hedgerow to be removed to provide visibility splays which will have some impact on the local character, however I note that the hedgerow adjacent to the listed canal ridge and limekilns are to be retained.

The erection of a house on the elevated site has the potential to affect the setting of the canal bridge and limekilns. However I note that the design and access statement discusses the proposed design being designed to reflect the sizes and proportions of existing dwellings and will be of a traditional design. Whilst being made in outline, the indicative plan suggests dormers on the roof, and it is noted that the canal cottages, Mount Pleasant and Limekiln Cottage do not have dormers but rather small windows beneath the eaves. However it is noted that the proposed block plan is indicative I would suggest that dormers may not reflect the local vernacular.

As the application is made in outline it is the principal of the development that is being considered and not the design which is a reserved matter. The proposal has the potential to affect the setting of the listed buildings by an inappropriate design for the location. However it also has the potential to enhance the character and appearance of the area by an appropriate design.

In this instance given the listed buildings are associated with the canal and the Design and Access Statement has indicated that the design of the proposed property will respect and reflect the local style and character of the surrounding properties which with the exception of Mount Pleasant were associated with the canal, the proposal if designed to respect and reflect the local style and character could enhance the local character.

As such I would not wish to object to the proposal on the setting in respect of the setting of listed buildings.

### Canal and River Trust

*Correspondence received 26<sup>th</sup> June 2017*

Thank you for your consultation.

Glandŵr Cymru, the Canal & River Trust in Wales, cares for Wales' historic canals, made up of the Swansea, Llangollen, Montgomery and Monmouthshire & Brecon Canals. Our canals perform many different functions and are a haven for people and wildlife and a national treasure. We are a statutory consultee in the development management process.

Glandŵr cymru has reviewed the consultation. This is our substantive response under the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, as amended. Based on the information available we have no comment to make.

### **Public Response**

Following display of a site notice and publicity in the local press no written representations have been received.

## **Planning History**

P/2017/0177 – Outline – Erection of a detached dwelling, formation of vehicular access and all associated works (Refused 03/04/2017).

## **Principal Planning Constraints**

None.

## **Principal Planning Policies**

### National Policies

Planning Policy Wales (9th Edition, 2016)

Technical Advice Note (TAN) 1 - Joint Housing Land Availability Study (2015)  
Technical Advice Note (TAN) 5 - Nature Conservation and Planning (2009)  
Technical Advice Note (TAN) 6 – Planning for Sustainable Rural Communities (2010)  
Technical Advice Note (TAN) 12 - Design (2016)  
Technical Advice Note (TAN) 18 – Transport (2007)  
Technical Advice Note (TAN) 20 – Planning and the Welsh Language (2013)  
Technical Advice Note (TAN) 23 - Economic Development (2014)  
Technical Advice Note (TAN) 24 – The Historic Environment (2017)

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

Welsh Office Circular 13/97 - Planning Obligations

### Local Policies

Powys Unitary Development Plan 2010

SP2 – Strategic Settlement Hierarchy  
SP4 – Economic and Employment Developments  
SP5 – Housing Developments  
SP6 – Development and Transport  
GP1 – Development Control  
GP2 – Planning Obligations  
GP3 – Design and Energy Conservation  
GP4 – Highway and Parking Requirements  
GP5- Welsh Language and Culture  
ENV2 – Safeguarding the Landscape  
ENV3 – Safeguarding Biodiversity and Natural Habitats  
ENV7 – Protected Species  
ENV14- Listed Buildings  
HP3 - Housing Land Availability  
HP4 - Settlement Development Boundaries and Capacities  
HP5 - Residential Development  
HP6 - Dwellings in the Open Countryside

HP8 - Affordable Housing Adjoining Settlements with Development Boundaries  
DC3 – External Lighting  
DC8 – Public Water Supply  
DC11 – Non Mains Sewage Treatment  
DC13 – Surface Water Drainage

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

## **Officer Appraisal**

### Section 38 (6) of the Planning and Compulsory Purchase Act 2004

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

### Principle of Development

The application site lies outside of any development boundaries identified in the Powys Unitary Development Plan (2010). Outside of settlement boundaries, UDP Policy HP4 applies and states that *'outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9'*. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered a departure.

### Housing Land Supply

The departure is being justified by the applicant on the basis that Powys County Council does not have a 5 year housing land supply.

Paragraph 9.2.3 of Planning Policy Wales states that *'Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.'*

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

*"The housing land supply should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5*

*year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies”.*

Whilst TAN 1 confirms that the need to increase housing land supply should be given considerable weight, it is emphasised that this is only where the development would otherwise comply with development plan and national planning policies. Therefore, all material planning considerations are required to be taken into account as are all relevant national and local planning policies and balanced with the undersupply of housing land currently available in Powys.

### Sustainability

When providing additional housing it is important to consider whether the scheme can be considered to be sustainable development. This can relate to a wide range of matters including public transport provision and access to education, employment opportunities and other services.

The development site is approximately ½ mile northeast of Welshpool which is identified in the UDP as an Area Centre. Welshpool is served by a wide range of community services and facilities including a hospital, secondary school, primary schools, leisure centre, library, museum, numerous shops and public houses. It is also easily accessible by public transport with regular bus services and a main line railway station.

In light of the range of services located within a short travelling distance of the development site, officers consider that there is an argument to support the principle of residential development. Therefore, the proposed site is considered to be a sustainable location for residential development.

### 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.

Whilst scale, appearance, layout and landscaping are reserved matters not to be considered as part of this application process, the applicant has provided an indicative layout for the site and stated that the proposed dwelling is to be detached two storey dwelling with four bedrooms

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating a dwelling without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

### Amenity

Policy GP1 of the Powys Unitary Development Plan states that the amenities enjoyed by the occupants of nearby neighbouring properties should not be unacceptably affected by development proposals and the proposal should complement and where possible enhance the character of the surrounding area.

The site layout is a reserved matter and not to be determined at this stage; however, the indicative site layout plan indicates that the proposed dwelling will be located approximately 18 metres from the nearest neighbouring residential dwelling to the southeast with the county highway between. Due to the suggested distance and positioning of the property it is not considered that the proposed development will affect the amenities of the neighbouring dwellings.

This layout is for indicative purposes only and the layout of the site could be altered to increase the distances between the properties if deemed necessary at any reserved matters application stage. The indicative layout is considered to be appropriate and would comply with policy GP1 and GP3 of the Powys Unitary Development Plan 2010.

### Landscape and Visual Impact

Policy ENV2 of the Powys Unitary Development Plan seeks to ensure that proposed development will not have an unacceptable adverse impact upon the Powys Landscape. Development proposals should be design in a way to be sensitive to the character and appearance of the surrounding area and landscape.

In terms of landscaping the submission includes the planting of additional trees and the relocation of part of the existing hedgerow to create road visibility improvements and the required access. Landscaping is a reserved matter and therefore detailed proposals would be considered at a later date.

Whilst the site would be visible from public vantage points including the public highway and the proposal would result in a visual change in comparison to the current agricultural use, taking into account the location opposite to existing dwellings within the area, that landscaping measures would reduce the visual impact and the proposed scale of one dwellings, it is considered that a satisfactory detailed design could come forward to reflect the overall character and appearance of the settlement and surrounding area.

In light of the above, it is considered that the proposed development complies with policy ENV2 of the Powys Unitary Development Plan 2010.

### Highways Safety and Movement

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking. Access to the site would be gained off the C2058 via an existing access.

The Highway Authority have been consulted on this application and have raised no objections to the development but have suggested a number of conditions regarding entrance gates, parking provision and access construction methods and materials. The application is made with all matters reserved with the site layout plan being provided for indicative purposes only and, as such, the details of the access are not to be determined at



this stage. It is, therefore, not necessary to include the suggested highways conditions on this application.

In light of the Highway Officer's comments it is considered that a safe access can be achieved and the proposed dwelling, therefore, fundamentally complies with Policy GP4 of the Powys Unitary Development Plan 2010.

### Ecology

An Extended Phase 1 Habitat Survey has been submitted with the application and the Powys Ecologist has been consulted on the development and has provided the above comments. A Habitat Regulations Assessment has been undertaken for the proposed development and the outcome concluded that there were no likely significant effects. No objection has been raised to the scheme; however, the inclusion of several conditions has been recommended to secure the recommendations identified in the Habitat Survey, and submission of a Landscaping and Management Plan, an External Lighting Design Scheme, and a detailed method statement for the realignment of the hedgerow. In terms of the landscaping plan it is noted that this is a reserved matter and, as such, these details will be considered at a later stage. It is, therefore, not necessary to condition the submission of a detailed landscaping scheme on this application.

It is considered that, in light of the Ecologist's comments and subject to the inclusion of the suggested conditions excluding the landscaping scheme, the proposed development fundamentally complies with policies ENV7 of the Powys Unitary Development Plan (2010) and Technical Advice Note (TAN) 5 Nature Conservation and Planning (2009).

### Built Heritage

The planning authority is required to have special regard to the desirability of preserving listed buildings or their settings under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Three listed buildings/structures have been identified within 400 metres of the application site: The bridge over the Montgomeryshire Canal, Buttington Limekilns, and Mount Pleasant.

As part of this application process the Powys Built Heritage Officer has been consulted following a site visit and has provided the comments as above. Taking into account the discussion above in respect of design, it is considered that the proposal would not have an unacceptable adverse effect upon the identified listed buildings/structures or their settings. It is noted that the details of the design will be dealt with at reserved matters stage and, as such, no objections to the proposal has been raised by the officer.

In light of the above and the Built Heritage Officer's comments it is considered that the development fundamentally complies with policy ENV14 of the Powys Unitary Development Plan (2010), Planning Policy Wales (9<sup>th</sup> Edition, 2016) and Technical Advice Note 24 – The Historic Environment (2017).

### Surface Water Drainage

Policy DC13 of the Powys Unitary Development plan seeks to ensure that development proposals should provide adequate provisions for land drainage and surface water disposal. Development should not give rise to unacceptable on or off site flooding.

In respect of surface water disposal, the submission indicates that this would be disposed of through the use of soakaways. As part of this application process percolation test results have been submitted and the Council's Land Drainage Officer has been consulted. The Officer has no objections to the drainage as proposed.

It is considered that, in light of the Land Drainage Officer's comments, the proposed development fundamentally complies with policy DC13 of the Powys Unitary Development Plan 2010 in respect of surface water drainage.

### Welsh Language

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. Technical Advice Note 20: Planning and the Welsh Language provides further advice on how the planning system considers the implications of the Welsh Language. Within the Powys UDP policy GP5 identifies settlements where the Welsh Language is important to the social, cultural and community fabric of the area. Whilst Welshpool has not been identified as one of these areas it is considered that the Welsh Language is a material consideration across the County.

In the 2011 census the Welshpool Gungrog Ward reported that 11.8% of the population spoke Welsh. This is a decrease from the 2001 census which stated that 13.8% of the population of Welshpool Gungrog spoke Welsh. The development of a single dwelling 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.

#### Planning (Wales) Act 2015 (Welsh language)

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

#### Wellbeing of Future Generations (Wales) Act 2015

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

### **Recommendation**

Whilst the proposal is a departure from the development plan, the Council's current lack of housing land supply carries considerable weight in favour of this development and given that the proposal would otherwise comply with development plan and national planning policies, the recommendation is one of conditional consent.

### **Conditions:**

1. Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

4. The development shall be carried out strictly in accordance with the plans stamped as approved on XXXX in so far as the extent of the application site is drawn.
5. Prior to first occupation of the dwelling, the Recommendations identified in Section 6 of the Extended Phase 1 Habitat Survey Report produced by Arbor Vitae Environment shall be implemented and maintained thereafter.
6. Prior to the commencement of development a detailed method statement for the realignment of the hedgerow which bounds the site along Rhallt Lane shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall also include a timetable for the proposed works and all realignment works shall take place in accordance with the approved details.
7. No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting design scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall thereafter be carried out in accordance with the details as approved.

### **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
6. 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 Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
7. To comply with Powys County Council's UDP Policies SP3, ENV3, ENV5 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

### **Informative Notes**

A Building regulations application will be required for this development, please contact Building Regulations on 01874 612290.

#### Birds - Wildlife and Countryside Act 1981 (as amended)

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- Intentionally kill, injure or take any wild bird
- Intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- Intentionally take or destroy the egg of any wild bird
- Intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

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

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk).

Signed:.....  
Rachel Mulholland Planning Officer

Date:

Signed:.....  
Principal Planning Officer

Date: