

Planning, Taxi Licensing and Rights of Way Committee Report

UPDATE REPORT

Application No:	P/2016/0797	Grid Ref:	308602.37 290383.72
Community Council:	Mochdre	Valid Date:	Officer: 28/07/2016 Tamsin Law
Applicant:	Melrose Developments, Shrewsbury Business Park, c/o Willow House East, Shrewsbury, SY2 6LG		
Location:	Land to the north of A489 west of Mochdre Brook, Newtown, Powys, SY16 4HZ		
Proposal:	Outline application for erection of up to 30 dwellings and construction of vehicular access		
Application Type:	Application for Outline Planning Permission		

The reason for the update

Consultation responses received from Powys Education and the Welsh Government Trunk Road.

Consultation Response

Powys Education

A development of this size is estimated to generate 14 secondary aged pupils and there is sufficient surplus capacity at Newtown High School to accommodate this number of pupils.

A development of this size is estimated to generate 21 primary aged pupils. There are a number of primary schools in Newtown. The nearest primary school to the development would be Maesyrrhandir CP School and the school is currently near or at capacity in a number of year groups. However, Ladywell Green Infants School and Hafren Junior School are located nearby and both schools currently have sufficient capacity to accommodate any additional pupils from this development. The Schools Service would not therefore wish to submit a S106 bid in respect of the development.

Welsh Government Trunk Road

I refer to your consultation of 6 June 2017 regarding the above planning application and advise that the Welsh Government as highway authority for the A489 trunk road directs that any permission granted by your authority shall include the following conditions:

1. The proposed access shall meet the standards required by the Design Manual for Roads and Bridges (DMRB) with the exception of any agreed Departures from Standard.

2. The junction and visibility splays shall be laid out, constructed and maintained strictly in accordance with the submitted plans (Drawing Number – SA22302/01/09 and SA22302/01/12).

3. The junction and visibility requirements shall be substantially complete and available for use prior to the occupation of any dwellings associated with the above development..

4. No drainage from the development site shall be connected to or allowed to discharge into the trunk road drainage system, and the proposed access shall be constructed such that the access does not drain onto the trunk road.

5. The applicant shall provide wheel-washing facilities at the construction site exit. Such facilities shall thereafter remain available and be used by all vehicles exiting the site during the construction stage.

The above conditions are included to maintain the safety and free flow of trunk road traffic.

The following points should be brought to the attention of the applicant:

a) The applicant should be advised that they may be required to enter into an agreement with the Welsh Ministers under Section 278 of the Highways Act 1980 / Section 23 of the New Roads and Street Works Act 1991 to enable the applicant to undertake agreed improvement works on the trunk road. This Agreement will contain details of the improvement works, construction conditions and financial arrangements under which agreed measures can be put in place, including indemnifying the Welsh Ministers against third party claims. Without such an agreement in place, any consent that may be granted by the Planning Authority cannot be implemented.

b) The applicant should be advised that all temporary or permanent signage, road markings or traffic orders shall be at the expense of the developer and agreed with the Highway Authority before works commence.

c) Any adjustment, re-siting and / or protection of any statutory undertakers apparatus in the highway shall be undertaken with the prior written consent of the relevant Authority and shall be carried out at the Applicant's own expense.

d) The applicant should note that planning permission does not constitute permission under the Highways Act for various activities that may be associated with the development i.e. use of the highway/footway/verge to: for example; deposit material, deposit skips, erect scaffolding, excavate within the highway or erect traffic management apparatus. Such activities will require the separate consent of the Highway Authority.

e) The Applicant shall commission and pay for a Safety Audit of the scheme, (Stages 1 – 4) in accordance with the Design Manual for Roads and Bridges HD 19/15. The Applicant shall agree the required measures with the Welsh Government before works commence on site and will be responsible for meeting all costs associated with these works.

f) Any temporary traffic management arrangements required in connection with this application shall be in accordance with Chapter 8 of the Traffic Signs Manual and in accordance with the Safety at Street Works and Road Works Code of Practice, and shall be approved by the highway authority.

1. Road traffic signs in Wales must be bilingual, Welsh above English, and adhere to Welsh Government specifications, see following link for standard details; http://www.traffic-wales.com/traffic_signs.aspx.

If you have any further queries, please forward to the following Welsh Government Mailbox NorthandMidWalesDevelopmentControlMailbox@Wales.GSI.Gov.UK.

Officer Appraisal

Following the receipt of further information Welsh Government Trunk Road recommended approval of the application subject to conditions.

Recommendation

Having carefully considered the proposed development, Officers consider that the proposal broadly complies with planning policy. Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval subject to the conditions outline within the update report.

Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out in accordance with the plans stamped as approved on xxxx (drawing no: SA22302/01/07, Flood Consequences Assessment, Planning Application Supporting Statement (including Design and Access Statement), Transport Statement and Ecological Assessment Report).
5. 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. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
6. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:
 - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 20% of housing units/bed spaces;

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

7. Prior to the commencement of development a phasing scheme for the provision of housing, affordable housing and the employment land shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in strict accordance with the approved scheme.

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

9. Upon the submission of the reserved matters referred to in conditions 1 and 2, a scheme for the provision of on-site recreational facilities shall be submitted to and approved in writing of the Local Planning Authority. The scheme shall accord with the Fields in Trust Standards and shall also involve arrangements for the long term management of the area together with the timing of construction and completion in relation to the housing units hereby permitted. The scheme shall be implemented in accordance with the agreed details.

10. The recommendations and mitigation regarding habitats, limited public access to Mochdre Brook, badger, bats, dormouse, otter, birds, reptiles and UKBAP species identified in Section 4 of the Ecological Report by Turnstone Ecology dated October 2016 shall be adhered to and implemented in full.

11. Any hedgerow removal shall be undertaken under the supervision of an ecologist licensed to handle dormice, following a hand search by the ecologist for summer dormouse nests or hibernating dormice depending on the season.

12. Prior to commencement of development a Pollution Prevention Plan, with particular regard to site drainage and the close proximity of Mochdre Brook, shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.

13. Prior to the commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

14. No development or site clearance shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

15. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

16. The proposed access shall meet the standards required by the Design Manual for Roads and Bridges (DMRB) with the exception of any agreed Departures from Standard.

17. The junction and visibility splays shall be laid out, constructed and maintained strictly in accordance with the submitted plans (Drawing Number – SA22302/01/09 and SA22302/01/12).

18. The junction and visibility requirements shall be substantially complete and available for use prior to the occupation of any dwellings associated with the above development..

19. No drainage from the development site shall be connected to or allowed to discharge into the trunk road drainage system, and the proposed access shall be constructed such that the access does not drain onto the trunk road.

20. The applicant shall provide wheel-washing facilities at the construction site exit. Such facilities shall thereafter remain available and be used by all vehicles exiting the site during the construction stage.

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 ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policies GP1, DC10 and DC13 of the Powys Unitary Development Plan (2010).

6. In order to secure affordable housing in accordance with policy HP7 of the Powys Unitary Development Plan (2010) and TAN2: Planning and Affordable Housing (2006).

7. In order to ensure that the affordable housing and employment elements of the development are delivered in accordance with Planning Policy Wales (9th Edition, 2016).

8. In order to ensure the affordable housing remains affordable in perpetuity in accordance with Policy HP7 of the Powys Unitary Development Plan (2010), the Powys

Affordable Housing for Local Needs Supplementary Planning Guidance (2011), Technical Advice Note 2: Planning and Affordable Housing (2006) and Planning Policy Wales (2016).

9. In order to secure adequate amenity space in accordance with policy GP1 of the Powys Unitary Development Plan (2010).

10. To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

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

12. 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, 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

13. 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, 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

14. 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.

15. 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.

16. In order to maintain the safety and free flow of trunk road traffic in accordance with policy GP4 and TAN18: Transport.

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Informative Notes

Biodiversity

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

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

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

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

- Intentionally or recklessly obstruct access to a holt.

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

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

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.

Trunk Road

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If you have any further queries, please forward to the following Welsh Government Mailbox NorthandMidWalesDevelopmentControlMailbox@Wales.GSI.Gov.UK.

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