

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: P/2017/0654

Grid Ref: 327651.95
293901.65

Community Council: Churchstoke

Valid Date: 12/06/2017
Officer: Rachel Mulholland

Applicant: Miss Delves, The Firs, Churchstoke, Montgomery, SY15 6AH.

Location: Land at the Firs, Churchstoke, Montgomery, SY15 6AH.

Proposal: Outline: Erection of 3 detached properties, including detached carports, formation of vehicular access and associated works (some 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 mostly within the settlement development boundary of Churchstoke as defined by the Powys Unitary Development Plan (2010) with the rear section of the plots falling outside of the boundary. The application site is located approximately 130 metres southeast from the main centre of Churchstoke and 160 metres to the west of the supermarket area. The site is to be accessed via an existing adopted lay by road from the A489. The nearest neighbouring residential properties are located approximately 6 metres to the east and 37 metres to the west. The site has agricultural buildings to the west and agricultural fields to the south.

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

Consultee Response

Churchstoke Community Council

Correspondence received 29th June 2017

CCC objects to the application for reasons as follows:

- a) It is proposed to have 3 separate entrances from the highway lay-by to the site which would limit the use of the well-used lay-by

- b) The proposal for 3 dwellings appears to be on over-development of the site
- c) The public footpath which crosses the site should be protected or re-routed through proper procedure
- d) The applicant's justification for the application on grounds of housing need is misleading, as there is already over-provision of housing plots against actual take-up in the village (many of which are with the applicant's family)
- e) The statement that no trees are to be felled is misleading as one large very old Oak tree has already been felled in recent weeks to make way for the development
- f) The south part of the site is outside the development areas set out in the UDP

PCC - Highways

Correspondence received 9th August 2017

The county Council as Highway Authority for the County Class I Highway, A489
Wish the following recommendations/observations be applied

Recommendations/observations:

Prior to any other works commencing on the development site, detailed engineering drawings for a 2 metre wide footway and controlled crossing point along the Class I A489 shall be submitted to and approved in writing by the Local Planning Authority.

Prior to any works commencing on the development site, all Highway Improvements, referred to above, shall be fully completed to the written satisfaction of the Local Planning Authority.

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.

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.

HC6 Prior to the commencement of the development clear visibility shall be maintained above a height of 0.6 metres above carriageway level over the full frontage of the developed site to the A489 road effective over a bandwidth of 2.4 metres measured from the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the areas 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 any 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 3 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.

HC21 Prior to the occupation of any dwelling the areas of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 5.5 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,

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.

PCC – Environmental Health

Correspondence received 23rd June 2017

Foul drainage

Environmental Protection has no objection to the proposal to connect to the mains sewer.

Construction-phase noise control

For the protection of amenity for nearby residential properties, Environmental Protection recommends the following condition for the control of construction-phase noise:

“Demolition or construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays and at no time on Sundays or Public Holidays.”

PCC – Ecology

Correspondence received 6th July 2017

Thank you for consulting me with regards to planning application P/2017/0654 which concerns the outline application for the erection of 3 detached properties, including detached carports, formation of vehicular access and associated works (some matters reserved) at Land at The Firs, Churchstoke, Montgomery

I have reviewed the proposed plans submitted with the application, streetview and aerial images and photographs that were taken during the site visit of the proposed development site and surrounding habitats, also local records of protected and priority species and designated sites within 500m of the proposed development.

The data search identified 63 record of protected and priority species within 500m of the proposed development, no records were for the site itself.

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

The proposed development appears to be impacting an area of land which was of improved grassland which is habitat of low ecological value. It appears from the site visit photos that recently a number of outbuildings have been demolished/taken down and the proposed development site now consists of ‘bare ground’.

Given the proposed developments would have involved the demolition of the outbuilding at the proposed development site consideration would have been given to the potential for this structures to support roosting bats (European Protected Species) and nesting birds. It is considered that there is a reasonable likelihood of bat roosts being present given the construction of the previous outbuildings, proximity of trees, hedgerows and watercourse surrounding the property. Therefore it is considered that the demolition of the previous outbuildings may have resulted in the loss of features or habitat suitable for use by roosting bats and nesting birds.

As the demolition of the outbuildings have already taken place assessment of the potential impact of the demolition of the outbuildings on roosting bats or nesting birds cannot be effectively surveyed.

It is then suggested that any potential loss/damage/disturbance of structures potentially used by bat for roosting purposes or birds for nesting be compensated by provisions of bat

boxes and bird boxes. Details of the type and location of the bat or bird boxes used will need to be clearly illustrated on the architectural plans submitted.

From viewing street view images as well as the photographs that were taken during the site visit it appears that a mature tree has been felled and potentially sections of hedgerow removed. Mature trees and hedgerows being important habitat features for a number of protected species including roosting bats and nesting birds.

The UDP policies ENV2 and ENV6 identify the need to protect or provide compensation for impacts to hedgerows and trees. UDP Policy ENV2 states that:

‘Proposals which are acceptable in principal should:

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

UDP Policy ENV6: Sites of Regional and Local Importance, makes reference to Powys LBAP habitats and species which include hedgerows 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’. Hedgerows are also 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. Where impacts to hedgerows are identified an appropriate compensation strategy will be required, where possible translocation of the existing hedgerow should be considered, if this is not considered possible at this location replacement hedgerow planting would need to be identified.

As such I recommend that a Tree and Hedgerow Replacement and Protection Scheme is secured through an appropriately worded condition, where it is necessary to remove any trees or hedgerow this plan will need to identify appropriate compensation planting for the loss of these features to maintain the important foraging or commuting features – 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 present in the local area.

The submitted plans suggest that there are rear gardens proposed - If it is proposed to provide landscaping as part of the potential development consideration should be given to the development of a native landscape planting scheme. It is recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules.

Careful consideration will need to be given to any external lighting of the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area or woodland. It is therefore recommended that a Wildlife Sensitive Lighting Plan is secured through an appropriately worded condition.

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

Prior to commencement of development a Tree and Hedgerow Replacement and Protection Scheme in accordance with BS:5837:2012 shall be submitted to the Local

Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

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 TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.

Prior to commencement of development, a detailed Species List for the Landscape Planting, shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: 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 Part 1 Section 6 of the Environment (Wales) Act.

Prior to the commencement of development a detailed lighting design scheme to take into account any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: 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, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.

Cadw

Correspondence received 30th June 2017

Thank you for your letter of 15 June 2017 inviting our comments on the additional information submitted for the above planning application.

Advice

Having carefully considered the information provided with the planning application, our records show that there are no scheduled monuments or registered historic parks and gardens within the vicinity of the proposed development. We therefore have no comments to make on the proposed development.

Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site. We do not provide an assessment of the likely impact of the development on listed buildings or conservations areas, as these are matters for the local authority.

It is for the local planning authority to weigh our assessment against all the other material considerations in determining whether to approve planning permission.

National Policy

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), technical advice notes and circular guidance.

PPW explains that the conservation of archaeological remains is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting.

Paragraph 17 of Circular 60/96, Planning and the Historic Environment: Archaeology, elaborates by explaining that there is a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of visible remains. PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, and that the effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application.

Clwyd-Powys Archaeological Trust

Correspondence received 19th June 2017

Thank you for the consultation on this application.

I write to confirm that there are no archaeological impacts arising from the proposed development at this location.

PCC – Rights of Way

Correspondence received 17th July 2017

Public footpath 65 would be directly affected by the above planning proposal. We have been contacted by the applicant for advice and the proposed plans clearly show an intention to divert the footpath.

The applicant will need to apply for a legal diversion (Public Path Order) of the public right of way affected. However, this is a complex and lengthy legal procedure, which takes a minimum of six months to process and costs at least £2,000. The County Council is not obliged to make a diversion order and success of a Public Path Order cannot be guaranteed.

The Council will also expect any new or diverted routes to be created to a minimum width and of a suitable surface, at the developer's expense.

Development over, or illegal interference with, a public right of way before a diversion order application has been fully processed, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way.

It is expected that all development proposals will be in-line with the guidance set out in the Powys County Council's 'Rights of Way and Development - A Practitioners Guide', available from Countryside or Planning Services' upon request or on-line at:
<http://www.powys.gov.uk/index.php?id=1756&L=0>

Public Response

Following display of a site notice on 30/08/2017 and publicity in the local press on 23/06/2017 and 09/09/2017 no written representations have been received.

Planning History

None.

Principal Planning Constraints

Public Right of Way
Historic Landscapes Register

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

SP5 – Housing Developments
SP6 – Development and Transport
GP1 – Development Control
GP2 – Planning Obligations
GP3 – Design and Energy Conservation
GP4 – Highway and Parking Requirements
ENV2 – Safeguarding the Landscape
ENV3 – Safeguarding Biodiversity and Natural Habitats
ENV7 – Protected Species
RL6 – Rights of Way and Access to the Countryside
HP3 – Housing Land Availability
HP4 – Settlement Development Boundaries and Capacities
HP5 – Residential Development
DC3 – External Lighting
DC8 – Public Water Supply
DC12 – Mains Sewage Treatment
DC13 – Surface Water Drainage
TR2 – Tourist Attractions

Powys Residential Design Guide (2004)

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 partly within and partly outside of the settlement development boundary of Churchstoke as 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 as three open market dwellings are proposed. 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 mainly contained within the settlement boundary of Churchstoke with the rear of the plots lying outside of the boundary. Churchstoke is identified in the UDP as a key settlement and is served by a range of community services and facilities including a primary school, community centre, public houses, a supermarket, post office and garage. It is also identified in the UDP as having the capacity to accommodate additional development. Churchstoke is easily accessible by public transport with regular bus services.

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 dwellings are to be detached two storey properties with three bedrooms each.

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 three dwellings 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 to the east would be located approximately 6 metres distant from the nearest neighbouring residential property known as The Firs. Although this is a relatively short distance the properties are staggered and, therefore, not directly adjacent, with the neighbouring driveway and a boundary hedge between. The proposed dwelling to the west would be located approximately 37 metres distant from the nearest neighbouring dwelling to the northwest. It is, therefore, considered that there is sufficient distance between the existing properties and the proposed dwellings as to not have a significant adverse impact upon the amenities enjoyed by the occupants of these neighbouring properties.

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 hedgerow as well as the relocation of part of the existing hedgerow to create access points and to provide road visibility improvements. 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 adjacent 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 has been consulted on this application and have raised no objections to the development but have suggested a number of conditions which are listed above. It is noted that the Community Council has raised concerns over the proposal for three separate entrances from the highway layby; however, the Highway Authority has raised no concerns over this issue or any resultant impact on highway safety.

In light of the Highway Officer's comments, and subject to the suggested conditions, it is considered that the proposed dwellings fundamentally comply with Policy GP4 of the Powys Unitary Development Plan 2010.

Ecology

No ecological information has been submitted with the application; however, the Powys Ecologist has been consulted on the development and has provided the above comments. No objection has been raised to the scheme subject to the inclusion of conditions securing the submission of a Tree and Hedgerow Protection Plan, a detailed lighting design scheme and a detailed landscaping scheme.

It is noted that landscaping 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 on lighting and hedgerow protection, 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).

Rights of Way

UDP Policy RL6 and the Countryside and Rights of Way Act (2000) seek to ensure the protection of the existing rights of way network. The proposed development does directly impact on an existing public footpath; however, the developer has indicated an intention to divert the footpath. The Powys Rights of Way Officer has been consulted on the proposal

and has raised no objections and has confirmed the process by which the developer must proceed to obtain a diversion order. The community Council has also iterated that the public footpath should be protected or rerouted through the proper procedure. An informative has been added to this effect.

Environmental Health

With regard to foul drainage it is proposed for the development site to connect to the public foul sewerage system. Given the location of the site it is considered that this is feasible. The Council's Environmental Health Officer has been consulted on this application and has no objections to this. It is, therefore, considered that the proposal is in compliance with the UDP Policy DC11.

Due to the location of the proposed development site near to other residential properties the Environmental Health Officer has also suggested a condition to control construction-phase noise control by limiting the days and hours of demolition and construction works. Subject to this condition the Officer has no objections to the development and it is, therefore, considered that the proposal fundamentally complies with the relevant planning policy.

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 Churchstoke Ward reported that 4.3% of the population spoke Welsh. This is a decrease from the 2001 census which stated that 7.2% of the population of Churchstoke spoke Welsh. Considering the size of the settlement area the development of three dwellings in this settlement is not considered to have a detrimental impact on the cultural or linguistic vitality of the area.

Public Representations

The Community Council has raised a number of concerns over the development including on the matters of highways and rights of way which have been addressed in the relevant sections above.

Concerns have been raised regarding the justification for the application on the grounds of housing need and the number of properties proposed for the site. It is stated that Churchstoke already has a sufficient housing provision. However, the housing land supply is for Powys as a whole and it also states within the Powys UDP that Churchstoke has the capacity to accommodate additional development. It is also considered, after assessment of the proposals, that the application site is capable of accommodating three dwellings.

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

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 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 XXXXXX (drawing no's: RPP/GD-JOB18-01 and RPP/GD-JOB18-03)
5. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to and agreed in writing by the Local Planning Authority and implemented as approved and maintained thereafter.
6. Prior to the first use of any external lighting a detailed lighting design scheme to take into account any impacts on nocturnal wildlife shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented as approved and maintained thereafter.
7. Prior to the commencement of development, detailed engineering drawings for a 2 metre wide footway and controlled crossing point along the Class I A489 shall be submitted to and approved in writing by the Local Planning Authority. Development thereafter shall be completed prior to the occupation of any dwelling.
8. 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.
9. 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.
10. Prior to the commencement of the development clear visibility shall be maintained above a height of 0.6 metres above carriageway level over the full frontage of the developed site to the A489 road effective over a bandwidth of 2.4 metres measured from the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the areas 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.

11. 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.
12. Prior to the occupation of any 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.
13. 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.
14. The width of the access carriageway, constructed as Condition 11 above, shall be not less than 3 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.
15. Prior to the occupation of any dwelling the areas of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 5.5 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.
16. 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.
17. Upon formation of the visibility splays as detailed in Condition 10 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.
18. No storm water drainage from the site shall be allowed to discharge onto the county highway.
19. No demolition or construction works shall take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays and at no time on Sundays or Public Holidays.

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, 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 Part 1 Section 6 of the Environment (Wales) Act.
6. 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, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.
7. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
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 the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
11. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
12. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
13. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
14. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
15. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
16. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.

17. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
18. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
19. To safeguard the amenities of the locality in accordance with policy GP1 of the Powys Unitary Development Plan.

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.

Rights of Way

Development over, or illegal interference with, a public right of way before a diversion order application has been fully processed and confirmed, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way.