

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

**Application No:** P/2017/0696

**Grid Ref:** 314810.6  
289750.3

**Community Council:** Kerry

**Valid Date:** 27/06/2017  
**Officer:** Rachel Mulholland

**Applicant:** Mr & Mrs Bebb, Common Road, Upper Common, Kerry, Newtown, Powys, SY16 4NY.

**Location:** Lomond, Kerry, Newtown, Powys, SY16 4NY.

**Proposal:** Outline - Residential development of 5 dwellings including replacement of an existing dwelling, formation of access, highway improvement and all associated works (some matters reserved).

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

### REPORT UPDATE

#### Consultee Response

##### PCC – Land Drainage

*Correspondence received 6<sup>th</sup> December 2017*

Having considered the information which has been submitted, the lead Local Flood Authority (LLFA) would make the following comments/recommendations.

##### Local Flood Risk/Land Drainage

Comment: The Authority holds no historical flooding information relating to this greenfield site.

Records indicate that the surrounding land slopes towards the site; the applicant would need to consider how surface water run-off from the surrounding land will be controlled without exacerbating or creating any flooding problems on site or elsewhere.

##### Surface Water Drainage

Observations: No proposed surface water drainage details or layout drawings have been submitted to indicate how the development will be drained.

Records indicate that the site slopes towards the public highway, the applicant would need to consider how surface water run-off will be controlled from the site whilst interrupting drainage of the surrounding land and not exacerbating or creating any flooding problems elsewhere.

Comments: The site is classed as Greenfield. The proposed surface water flows should therefore be equivalent to existing Greenfield run-off in accordance with the principles of TAN15 – Development and Flood Risk and good practice drainage design.

The general soil type for the site location is described as being 'Freely draining'. Soakage in this type of soil structure would seem feasible. The use of sustainable drainage techniques and or soakaways are therefore recommended, the design of which shall follow Welsh Government's guidance "Recommended non-statutory standards for sustainable drainage (SuDS) in Wales – designing, constructing, operating and maintaining surface water drainage systems" dated January 2016. This guidance can be downloaded via the following link:- (<http://gov.wales/topics/environmentcountryside/epq/flooding/drainage/?lang=en>).

Recommendation: No development shall commence until full engineered drawings and drainage calculations for the surface water drainage of the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before any dwellings are occupied.

Reason: To ensure that the proposed drainage systems for the site follow best practice sustainable drainage designs and are fully compliant with regulations and are of robust design.

#### Environment Protection

Informative: Foul drainage from the proposed development should be conveyed to the main foul sewer, subject to the agreement by Severn Trent Water Ltd. There must be adequate capacity at the receiving sewage treatment works to treat the additional flows. Consent is required from the service provider to connect into the foul main sewer.

#### PCC – Built Heritage

*Correspondence received 13<sup>th</sup> December 2017*

Thank you for consulting me on the above application.

The site is not directly adjacent to any listed building with the nearest listed building being The Moat Cadw ID 7564. The site is closer to Scheduled Ancient Monument Cadw ID MG050 The Moat Mound and Bailey castle (adjacent to The Moat listed building) and as Cadw are the consultee in respect of Scheduled Ancient Monuments I shall defer any consideration in respect of the setting of the Scheduled Ancient Monument to them.

The application site is on the western side of Common Road and is sited between 2 clusters of residential properties with Uchel Dre being to the south of the site and between the site and the listed building The Moat Cadw ID 7564.

I am mindful of the advice in Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which directs authorities considering applications for planning permission to have special regard to certain matters, including the desirability of preserving the setting of the building. I would also refer to more recent guidance in paragraph 6.5.11 of Planning Policy Wales 9th edition 2016 which identifies that the primary material

consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting”.

Given the location of the site with residential properties on both sides of the site along Common Road, of which Uchel Dre is sited between the application site and the listed building, I would not consider that the development of the site as indicated would affect the setting of The Moat Cadw ID 7564.

Taking into account the new Welsh Government guidance on Setting of Historic Assets in Wales in TaN24 and its annexe, I would have no objections on built heritage grounds.

## **Officer Appraisal**

### 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. No further drainage details or drawings have been submitted. As part of this application process the Council’s Land Drainage Officer has been consulted. We have received comments in response which considers flood risk and surface water potential arising from the proposed development. No historic flooding information relating to the site is held by the authority and no further concerns have been raised by the officer in this respect. The proposed soakaway system for surface water runoff is noted by the land drainage officer and further details in the form of a drainage scheme have been sought by the inclusion of a condition upon any grant of consent.

Officers consider that subject to the suggested condition the proposed development fundamentally complies with policy DC13 of the Powys Unitary Development Plan 2010 in respect of surface water drainage.

### 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. The site is not adjacent to any listed building but the listed Kerry Moat is located approximately 190 metres to the southwest of the site and, as such, the Powys Built Heritage Officer has been consulted on the proposal.

The Built Heritage Officer notes that the development site is located between two clusters of residential properties with one of these being between the site and the listed building The Moat. Given this siting it is considered that the development would not affect the setting of The Moat and no objections have been raised to the proposals.

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).

## 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 15/12/2017 (drawing no: 16128-4)
5. Development shall not commence 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.
6. The affordable dwelling/s 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) (Amendment) (Wales) Order 2013 (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.

7. Upon the submission of the reserved matters referred to in conditions 1 and 2 above, plans detailing cross sections of the application site and finish floor levels of the dwellings provided must be submitted to the Local Planning Authority. The scheme must be implemented as approved.
8. Prior to the occupation of any dwelling any entrance gates shall be set back at least 10 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the development hereby permitted remains in existence.
9. The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
10. The centre line of the first 10 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.
11. No development shall commence until the access has been constructed so that there is a clear visibility splay from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area 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.
12. Before any development is commenced the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
13. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.
14. Prior to the commencement of development full engineering drawings for all highway related infrastructure which shall include details of the carriageway widening, new footway and any retaining structure to the rear of the new footway, shall be submitted to and approved in writing by the Local Planning Authority.

15. Prior to the occupation of any dwelling all the highway works shall be fully completed to the written satisfaction of the Local Planning Authority.
16. Prior to the occupation of any dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 10 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.
17. No storm water drainage from the site shall be allowed to discharge onto the county highway.
18. Prior to the commencement of development detailed drainage plans for the disposal of foul and surface water flows shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as agreed and maintained thereafter.
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.
20. The mitigation measures in section 5 of the Preliminary Ecological Appraisal and Bat Roost Assessment report produced by Gerald Longley Ecological Consultants dated November 2017 shall be adhered to and implemented in full and maintained thereafter.
21. Prior to the commencement of development a Tree and Hedgerow Protection and Replacement 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.
22. 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 and shall be implemented as approved and maintained thereafter.
23. Prior to the commencement of development full engineered drawings and drainage calculations for the surface water drainage of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed before any dwellings are occupied.

## **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. In order to ensure the provision of affordable housing in accordance with policies HP5, HP7 and HP10 of the Powys Unitary Development Plan (2010), Technical Advice Note 2 – Planning and Affordable Housing (2006) and Planning Policy Wales (2016).
6. In order to ensure the provision of affordable housing in accordance with policies HP5, HP7 and HP10 of the Powys Unitary Development Plan (2010), Technical Advice Note 2 – Planning and Affordable Housing (2006) and Planning Policy Wales (2016).
7. To safeguard the character and appearance of the area in accordance with policy ENV2 of the Powys Unitary Development Plan.
8. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
9. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
10. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
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17. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
18. To ensure that the proposed drainage systems for the site follow best practice sustainable drainage designs and are fully compliant with regulations and are of robust design.
19. To safeguard the amenities of the locality in accordance with policy GP1 of the Powys Unitary Development Plan.
20. 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.
21. 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.
22. 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.
23. To ensure that the proposed drainage systems for the site follow best practice sustainable drainage designs and are fully compliant with regulations and are of robust design.

## **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).

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical



plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

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