

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: P/2017/1402 **Grid Ref:** 303406.15 309647.54

Community Council: Llanerfyl **Valid Date:** 13/12/2017 **Officer:** Steve Packer

Applicant: Mrs Sioned Roberts, Parc Llangadfan, Welshpool, Powys, SY21 0PJ.

Location: Derwen, Llanerfyl, Welshpool, Powys, SY21 0EG.

Proposal: Outline application (with all matters reserved) for erection of up to 4 no detached dwellings with detached garages.

Application Type: Application for Outline Planning Permission

The reason for Committee determination

The proposal is a departure from the Unitary Development Plan and the recommendation is one of approval.

Site Location and Description

The application relates to part of the site which was the subject of an application for 7 dwellings, refused by Committee in December 2017 (P/2017/0874). The current proposal excludes the section of field opposite the Village Hall, but retains a frontage onto the Talerddig Road opposite the Bethel Chapel and the bungalow dwellings known as Disgwylyfa and Gwyn yr Haul.

The site, 0.3 hectares in extent, is open to the south, relatively flat and extends 30 metres back from a substantial mixed species hedgerow which forms the northern boundary. A public right of way runs in a southerly direction from the Talerddig Road along the northern boundary. The western boundary is defined by the curtilage of a two storey dwelling known as Derwen.

The proposal is in outline but offers an indicative layout of four dwellings (three 2/3 bed houses and one 2/3 bed bungalow) with the plan suggesting smaller units than those originally applied for.

Potential vehicular access is shown to the west of the current agricultural access with the new dwellings being served by shared private drives running parallel with the existing hedgerow from an adopted hammerhead. Following concerns raised by the Community Council the exact form of vehicular access has been reserved for future consideration. New tree planting is proposed in the hedgerow with the wide grass verge retained and a new, 2 metre wide footpath along the road. The remaining boundaries would be the subject of hedge and tree planting.

Consultee Response

Llanerfyl Community Council-

Following a meeting on 9th January 2017 Llanerfyl Community Council voted in favour of this application by a majority.

We are pleased that the applicant has adhered to providing a more suitable application for the need of the village being 2/3 bed homes for our young adults and families but wish to address the following:

There are still major concerns on the access route for the development. During peak times this area is heavily congested with cars, children, parents meeting school buses etc. Our previous suggestion for each property to adjoin the main road separately would be much more favourable in terms of the safety of the area– also it would defer the traffic away from the entrance to the Hall car park where it is already hazardous. At the time when the school bus departs and arrives each day there are extreme safety issues in this area.

We also believe this option is more attractive to purchasers of the properties. Having a totally secure private access where neighbouring cars are not driving past whilst children, dogs etc are running freely in their own gardens is a more attractive purchase.

Then, in addition to the above issues, if the development were to be unsuccessful there would not be an unsightly access road in a half built development in the style of which we have all seen in the county. With its own access directly onto the road each property could be developed without losing any aesthetics of the village.

Powys Highways

Highways initially recommended a series of conditions to be placed on any approval but, following the request from the applicant to retain access as a reserved matter, have offered the following response:

Whilst the Highway Authority do not object to the principle of development, any detailed application should include full access details which should include visibility splays, access surfacing, radii, width, gradient and drainage for both the proposed residential and agricultural access. Furthermore, detailed engineering drawings for a footway along the Class III C2031 and associated works, should also be submitted.

Powys Building Control

Building Regulations Approval will be required.

Wales & West Utilities

According to our mains records we have no apparatus in the area. However Gas Pipes owned by other GT's and also privately owned may be present. Information with regard to such pipes should be obtained from the owners.

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

Powys Environmental Health

Environmental Protection has no objection to the proposal to connect to the mains sewer provided that there is sufficient capacity for the additional waste in the STW foul mains system.

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.”

Severn Trent

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

Powys Ecologist

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 106 records 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 site of the proposed development comprises an area of improved grassland a habitat of low ecological value. The northern and western boundaries of the proposed development site comprise areas of hedgerows habitats of high ecological value.

Having reviewed the records of protected and priority species present within 500m of the proposed development it is considered that the site lacks suitable habitat to support protected species identified in the local area, therefore it is considered unlikely that the proposed development would result in negative impacts to protected species.

The submitted plans and associated information identify that a new access is proposed for the site off Talerddig Road. In order to achieve the access and associated visibility splays it

has been identified that it is proposed to remove a section of the hedgerow at the front of the site, in addition it is noted that a section of hedgerow that bisects the site will be removed to accommodate the proposed development.

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 along the southern and eastern boundary of the proposed development site – the provision of new hedgerow planting to replace the sections of hedgerow that will be removed is welcomed, the length of new hedgerow planting exceeds that which would be lost as a result of the proposed development – the additional hedgerow planting is considered to provide additional benefits for biodiversity i.e. biodiversity enhancements in accordance with the requirements of Section 6 of the Environment (Wales) Act 2016. Details of the replacement hedgerow planting should be secured as part of a Landscaping Scheme 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 hedgerow, shrub and 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. It is also recommended that in order to ensure the safeguarding of existing hedgerows that are to be retained as part of the development a hedgerow protection plan 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. 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:

Prior to commencement of development a Hedgerow Protection Plan 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 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.

Welsh Government Highways

Advise that Welsh Government as highway authority or the A458 trunk road does not issue a direction in respect of this application.

Cadw

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 conservation 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 (Chapter 6 – The Historic Environment) 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. Technical Advice Note 24: The Historic Environment 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 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.

Assessment

Within 1 kilometre are:

MG072 Llysun Motte and Bailey c480 metres to the north,north east.

MG070 Gardden Camp and Barrows c 960 metres to the south.

The proposed development will not be visible from MG072 as it is separated from it by the built up area of the community of Llanerfyl.

The proposed development is potentially visible from MG070, a circular iron age hillfort with a scheduled area extending below the summit to the north to take in the site of two bronze age round barrows. The barrows may have been intended to be visible in the landscape from the valley to the north where the development is to be located; in this context their setting would remain unaffected. The hillfort as a centre of regional power is likely to have commanded views out over the surrounding landscape, however any change to the setting of the monument, at the distance concerned and where the development would be framed against existing townscape, would be considered minimal.

Representations

Three letters of objection have been received at the time of writing this report.

The first objects on the grounds that the development will block the public footpath (the complainant has been informed that this is not the case).

The other two objections include the following concerns:

- The application is to develop land which falls outside the development plan, and is not adjacent to the plan, in which case it is on open green belt land that should be protected.

- The development of this land expanding beyond village boundaries (whilst reduced in size) has only some weeks ago been refused (under ref P/2017/0874) by councillors. The village already has areas more appropriate which are adjacent to the development plan, and within the village.
- The proposal implies it being to support local families, and yet the application only offers up 1 section 106 local needs home, with the remainder having no size or occupation restriction and being for open market development
- This application is not felt to be a sustainable development towards meeting existing and future needs of the community, as evidenced by the fact there remains a number of undeveloped areas more central to the village (not on green belt land), that have not been developed, and the shopping, retail, banking, transportation services of the village are very limited to warrant such expansion. There is only one daily bus service.
- It was noted in the recently refused application, that more children attend the nearby Llanfair school, rather than Llanerfyl.
- The parcel of land proposed for development also floods
- All things being equal, i.e. the reason for rejection is still relevant, if this application is approved, it would call into question the integrity of the Planning Department and that of the Llanerfyl Community Council, which has reversed its previous opinion on this matter.
- . Once farming subsidies rely on productivity and not acreage, more agricultural land in the area will become surplus to requirements and a precedent should not be set by allowing development on such land.
- Considering also that there is another application for 9 domestic properties in Llanerfyl, the volume of traffic in the village and on the A458 could increase significantly.
- Another consideration is that there are currently applications for 14 new residences in Llanfair Caereinion, so with potentially 13 in Llanerfyl there can only be increased impact on the services of the Medical Centre, where it can currently take four weeks or more to get an appointment with a chosen doctor.
- Properties do not sell quickly in Llanerfyl and there are currently properties available in the village; at least three for sale and two for letting. Houses that do not sell invariably become letting properties, leading to a somewhat transient population. Houses that do sell seem to be at the lower end of the scale; under £150,000, and this is an ideal price range for the holiday homes market.
- New houses will not per se encourage young people to stay in the village, there needs to be employment opportunities with real career prospects with health and transport services developed alongside.

- The last section of 12.8 of the S/SPS states that the owners of the site have a history of selling plots and houses to Welsh speakers and that these (properties subject of the application) will be offered to local Welsh people. Welsh law prohibits the discrimination on the grounds of race, when selling a property.

Planning History

P/2017/0874- Outline application (with some matters reserved) for erection of 7 no. detached dwellings with detached garages, formation of vehicular access, access road and all associated works. Refused.

Principal Planning Constraints

Public Right of Way
Class 3 Road 1, Footpath
C2031

Principal Planning Policies

National Planning Policy

Planning Policy Wales (9th Edition, 2016)
Technical Advice Note 1: Joint Housing Land Availability Studies (2015)
Technical Advice Note 5: Nature Conservation and Planning (2009)
Technical Advice Note 6: Planning for Sustainable Rural Communities (2010)
Technical Advice Note 12: Design (2016)
Technical Advice Note 15: Development and Flood Risk (2004)
Technical Advice Note 18: Transport (2007)
Technical Advice Note 20: Planning and the Welsh Language (2017):
Technical Advice Note 23: Economic Development (2014)
Welsh Government Practice Guidance: Planning for Sustainable Buildings (2014)
Welsh Government Circular 016/2014: The Use of Conditions
Welsh Office Circular 10/99: Drainage

Local Planning Policy

Powys Unitary Development Plan (2010)

UDP SP3 – Natural, Historic and Built Heritage
UDP SP5 – Housing Developments
UDP DC1-Access by disabled persons
UDP E7- Solar technologies
UDP ENV1-Agricultural land
UDP ENV2 - Safeguarding the Landscape
UDP ENV3 – Safeguarding Biodiversity and Natural Habitats
UDP ENV7 - Protected Species
UDP GP1 - Development Control

UDP GP2 – Planning Obligations
UDP GP4 - Highway and Parking Requirements
UDP GP5 - Welsh Language and Culture
UDP HP3 - Housing Land Availability
UDP HP4 – Settlement Development Boundaries and Capacities
UDP HP6 – Dwellings in the Open Countryside
UDP HP7 – Affordable Housing within Settlements
UDP HP8 – Affordable Housing Adjoining Settlements with Development Boundaries
UDP HP9 - Affordable Housing in Rural Settlements
UDP HP10 - Affordability Criteria
UDP DC13 – Surface Water Drainage
UDP RL6 - Rights of Way and Access to the Countryside
UDP TR2: Tourism Attractions and Development

Affordable Housing for Local Needs Supplementary Planning Guidance (SPG) Approved September 2010, Updated July 2011

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

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.* Llanerfyl has a development boundary so the relevant policy is HP8 which states that favourable consideration will be given to proposals for affordable housing where sites adjoin settlements with development boundaries. The site is therefore not in accordance with the UDP policies and is considered to be a departure from the adopted plan. Although it is anticipated that the LDP will shortly supersede the UDP in terms of policy considerations the UDP, at present, still carries weight.

Committee Members will be well aware that Officers recommended approval to the previous application which proposed seven dwellings on a larger site. This recommendation was based on the current shortfall in housing land supply and appraisal of the impacts of the proposal with regard to specific material considerations.

Members were also made aware in the ensuing discussion that the LDP does not have a development boundary but it is envisaged that there will be a modest growth in housing for the settlement.

What follows is a revised appraisal of the acceptability of the housing scheme now proposed at this edge of settlement location.

Design and layout and impact upon surrounding area – landscape and visual impacts

Guidance contained within UDP policy HP5 indicates that residential development will be permitted where the development is of an appropriate scale, form and design and general character, to reflect the overall character and appearance of the settlement and surrounding area.

Whilst design and layout are reserved and will be dealt with at a later point in time, it is relevant to consider whether the number of dwellings proposed could be appropriately developed on the site without unacceptable impacts on the landscape and on visual amenity.

The site does have a reasonable relationship to the settlement's built form being opposite existing dwellings and the Bethel Chapel and with a dwelling and the village workshops to the west and on the same side of the road. The existing hedgerow is shown as being largely retained (although this would depend on access proposals put forward at reserved matters stage) but the landscaping of the site would assist with integration. Therefore, it is not considered that a reason for refusal on landscape and visual grounds could be sustained.

Highway access and parking requirements

UDP Policy GP4 requires adequate highway provision in terms of a safe access, visibility, turning and parking.

An indicative layout has been submitted with the application showing proposed dwellings being served by a shared private drive leading to an adopted access onto the Talerdigg road. Concern has been raised previously regarding the impact of additional traffic in the village and particularly on the location of development opposite the entrance to the village hall creating an additional hazard.

This concern is not shared by the Highway Authority who, initially, recommended conditions to be applied to any approval on the basis of the access arrangements shown on the indicative layout. However, having had sight of the Community Council's representation, the applicant has requested that the access arrangements for the development be reserved for detailed consideration at the reserved matters stage.

Housing Land Supply

Planning policy (TAN1 and UDP HP3) states that the Council needs to have a five year supply of land available for housing. The latest Powys Joint Housing Land Availability Study (2016) concludes that there is 2.2 years of housing supply which is a considerable shortfall.

Housing supply is a material consideration that should be given considerable weight in the determination of this application. TAN 1 states:

'The housing land supply figure 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'.

The JHLAS identified a significant undersupply of housing land within Powys. As mentioned above, TAN 1 confirms that the need to increase supply should be given considerable weight but only where the development would otherwise comply with development plan and national planning policies.

The objector to the application states that there is sufficient land within the settlement to accommodate further housing but Members will recall that this was previously contested on the grounds that remaining open areas are subject to constraints such that they have not been the subject of development proposals. However, as pointed out by one of the objectors, an outline application for nine dwellings in the village. (P/2017/1493) was registered late last year but this has now been withdrawn following concerns raised by the highway department regarding the sub- standard nature of the proposed access arrangements.

Affordability

Referencing the Joint Housing Land Availability Study a figure of 10% is justified in Llanerfyl. The applicant is offering one dwelling which is considered to be reasonable in the circumstances.

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.

Llanerfyl accommodates a school, Community centre and a Garage (which also sells a limited range of retail goods) and is served by a limited bus service. In light of this, the settlement is considered to be sufficiently sustainable for the scale of development proposed.

Economic Development:

In relation to economic development, it is considered that the potential construction of the dwellings would make a modest contribution to the economy of the local area. The development is, therefore, considered to have a neutral to positive impact on the local economy and jobs.

Social Cohesion and Community Vitality

Given the scale of the proposed development, it is not considered that the proposal would have a significant effect on different parts of the local community, which would potentially advantage some groups and disadvantage others. It is considered that no robust evidence has been identified that the proposed development would undermine traditional values and community culture.

The fact that approval of the application would enable the provision of a unit of Affordable housing could assist the aim of retaining younger, economically active members of the Community.

Statements have been made to the effect that the Primary School in Llanfair is more attractive than the village school but there is no hard evidence in that regard. Taken to its conclusion, the logic of such an argument is that the future of the Llanerfyl School is in doubt and that this development would not assist in its retention; an assumption which, if acted upon, could potentially further serve to erode the settlement's viability.

Welsh Language and Culture

Planning Policy Wales (PPW) notes the Welsh Government's commitment to ensuring the Welsh Language is supported and encouraged to flourish as a language of many communities all over Wales. It highlights that it should be the aim of local planning authorities to provide for the broad distribution and phasing of housing development taking into account the ability of different areas and communities to accommodate the development without eroding the position of the Welsh language. It does however also note that policies must not introduce any element of discrimination between individuals on the basis of their linguistic ability, and should not seek to control housing occupancy on linguistic grounds.

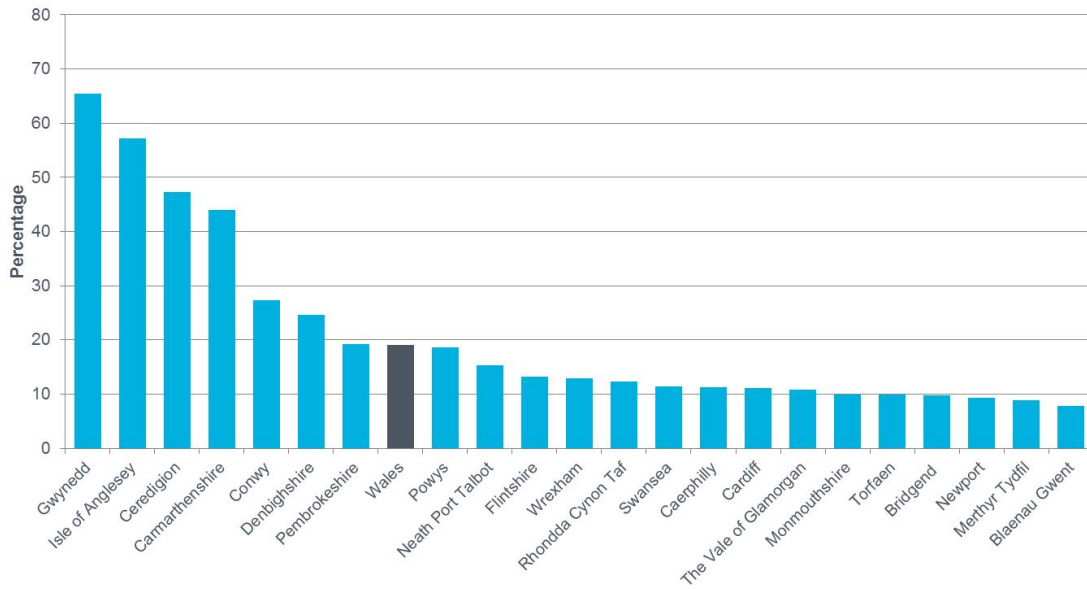
With regards to the Development Management function, PPW states as follows:

“Consideration relating to the use of the Welsh Language may be taken into account by decision makers so far as they are material to applications for planning permission. If required, language impact assessments may be carried out in respect of large developments not allocated in, or anticipated by, a development plan proposed in areas of particular sensitivity or importance for the language. Any such areas should be defined clearly in the development plan. Decisions on applications for planning permission must not introduce any element of discrimination and should not be made on the basis of any person(s) ‘linguistic ability’.”

Policy GP5 of the Powys UDP states that within identified settlements proposals will only be acceptable where developers can demonstrate that they have taken full account of the importance of the Welsh Language and culture, including through the provision of an appropriate level of affordable homes. Llanerfyl is one such settlement.

The national picture and the place of Powys within remains as shown below:

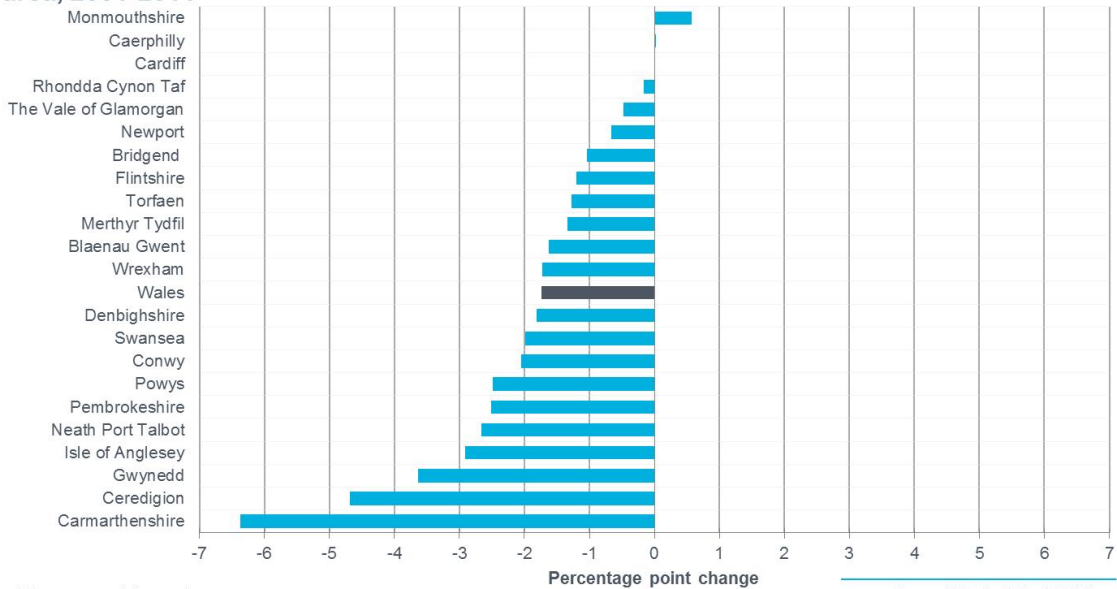
Percentage of the population able to speak Welsh according to the 2011 Census, by local authority area



welshlanguagecommissioner.wales

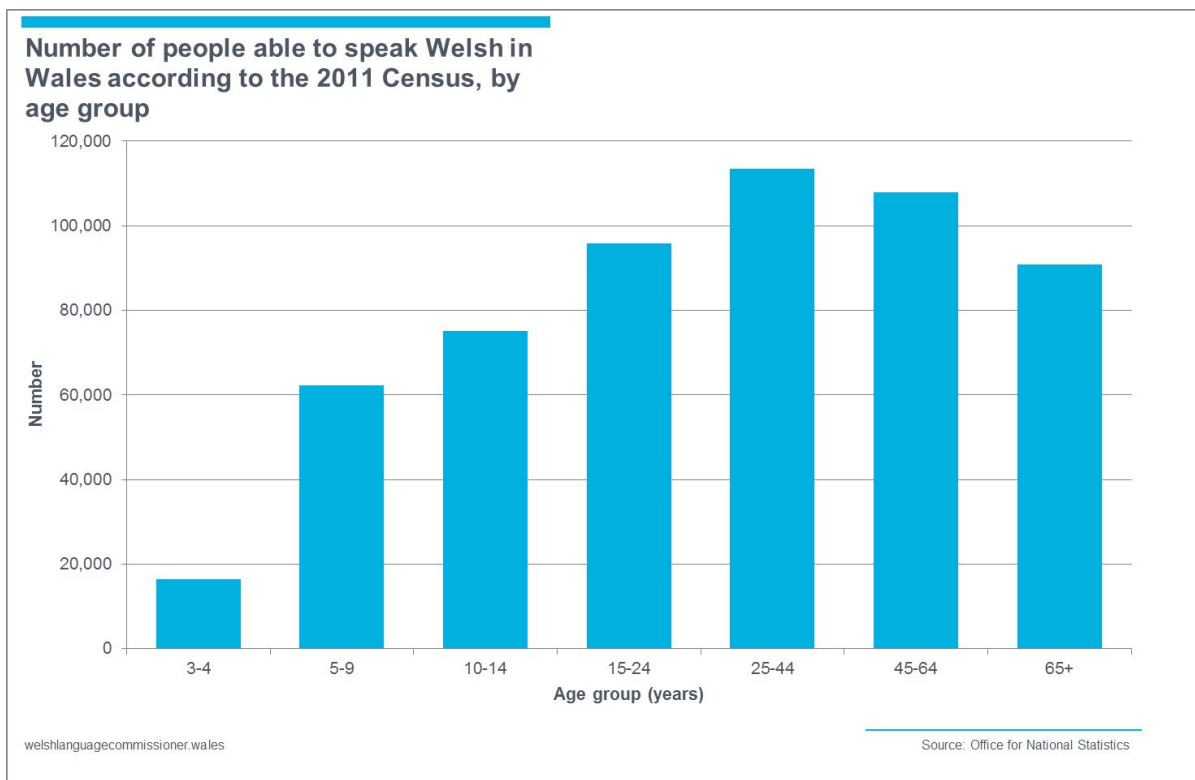
Source: Office for National Statistics

Change in the percentage of the population able to speak Welsh (percentage point), by local authority area, 2001-2011



welshlanguagecommissioner.wales

Source: Office for National Statistics



Llanerfyl is above the national and Powys average when it comes to the extent of Welsh speaking as shown in the following table and is acknowledged in UDP policy GP5 as a settlement where the Welsh Language is identified as being important to the social, cultural and community fabric. The applicant's agent has provided a section within the Planning Statement devoted to Welsh Language and Culture in which it is pointed out that there is not a serious decline in speakers of the Welsh Language and arguing that new housing will provide young families with the opportunity to live in the village.

The census data does show that there is a small decline in a modestly growing population and a heartening increase in the 3-15 age group reflecting the teaching of the Welsh language in schools

Ability to speak Welsh-Llanerfyl

Age	2011 %	2001 %	2011 Number	2001 Number
3+:	56.5	57.9	223	221
3-15:	92.1	75.3	70	55
16-64:	47.3	51.8	116	129
65+:	50.0	61.7	37	37

Number of residents aged 3 and over:

Census	Number
2011	395
2001	382

On balance, therefore, and given the modest size of the proposal and the element of affordable housing proposed, the impact of the development on Welsh Language and culture is likely to be neutral rather than negative.

The point raised by an objector regarding discrimination favouring Welsh people is noted but, if approved, the affordable unit would be subject to the Council's requirements which do not make distinctions regarding race.

Impact upon amenities enjoyed by the occupants of neighbouring properties

Policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties will not be unacceptably affected. The Powys Residential Design Guide provides guidance on overshadowing and privacy. The location of the site and the indicative layout demonstrate that there will be no unacceptable negative impact on the amenities of existing dwellings.

Foul and surface water disposal

It is proposed to dispose of foul sewage to the mains system which is the preferred method of disposal within planning policy. It is recommended that a condition is attached to any consent granted to ensure a satisfactory means of drainage in accordance with UDP Policy DC10.

Impact upon nature conservation

The Council acknowledges the need to protect biodiversity from adverse development through careful monitoring, maintenance and the protection of habitats and species worthy of conservation. Therefore, the nature conservation policies in the UDP seek to safeguard and enhance biodiversity, and these objectives are also echoed in national policy (TAN5 and Planning Policy Wales).

The County Ecologist has confirmed that there are no adverse biodiversity impacts associated with the proposal and has recommended conditions. Detailed landscaping would be considered at the reserved matters stage and as such this would provide biodiversity enhancements in accordance with UDP Policy ENV3. Informative notes are also recommended.

Impact on Rights of Way

The revised scheme will not affect the Public Right of Way

Impact upon heritage assets

It has been confirmed by Cadw that there is no objection to the proposal and there are no known archaeological remains which would be affected by the development.

Loss of agricultural land

UDP Policy ENV1 provides safeguarding for the best and most versatile land. The land is not known to fall within grades 1, 2 and 3a and therefore is not considered to be of the best and most versatile agricultural land or of particular value to agriculture within the locality in accordance with the advice provided within UDP Policy ENV1.

Flooding

The application site is not within an area identified as vulnerable to flooding. The fact that there can be standing water at times of heavy rainfall could be relevant if it was proposed to use private sewage treatment but, in this instance, the development would be connected to the mains sewerage system.

Other Planning 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 it is acknowledged that the Committee have previously refused an application for 7 dwellings at this location on the grounds that the level of development would be

unsustainable, and that the current proposal remains a departure from the Unitary Development plan, it is advised that the specific impacts of the proposal are acceptable and the provision of four dwellings is considered to be sufficiently beneficial to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. It is also considered that the settlement has a degree of sustainability sufficient to justify this level of growth. The recommendation is therefore one of approval, subject to the following conditions:

Conditions:

1. Details of the appearance, landscaping, layout, access arrangements 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. 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 1 affordable dwelling;*
 - 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.*
5. The affordable dwelling 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.
6. No development shall commence until details of a scheme for the disposal of foul and surface water has been submitted to and agreed in writing by the local planning authority.

The scheme shall be implemented in accordance with the approved details prior to the first occupation of the dwellings hereby permitted and retained in perpetuity.

7. 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

8 Prior to commencement of development a Hedgerow Protection Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

9. 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.

10. 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.

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. In order to ensure the provision of affordable housing in accordance with Policy HP7 of the Powys Unitary Development Plan (2010) and the Affordable Housing for Local Needs Supplementary Planning Guidance (2011).

5. In order to ensure that the dwellings serve an affordable need in perpetuity in accordance with the Affordable Housing for Local Needs Supplementary Planning Guidance (SPG) (July 2011), Policies HP7 and HP10 of the Powys Unitary Development Plan (2010) and Planning Policy Wales (2016).

6. 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).

7. 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.

8. 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.

9. 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.

10. In the interest of protecting the amenity of nearby dwellings in accordance with Policy GP1 of the Powys Unitary Development Plan (2010).

Informative Notes

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.

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