

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2017/0098	Grid Ref:	317094 322248
Community Council:	Llangedwyn	Valid Date:	Officer: 02/02/2017 Tamsin Law
Applicant:	Llangedwyn Estate Sansaw Business Park, South Pavilion, Hadnall, Shrewsbury, SY4 4AS		
Location:	Land at Ty Brith Bwlch-Y-Ddar, Llangedwyn, Llanfechain, Oswestry, SY10 9LL		
Proposal:	Erection of a replacement dwelling, creation of new access and installation of package treatment plant		
Application Type:	Application for Full Planning Permission		

The reason for Committee determination

The application is a departure from the development plan.

Site Location and Description

The submission comprises two separate application site areas because the existing dwelling, Belan Einion is located approximately 1km from the proposed site of the new dwelling. Belan Einion is a detached stone dwelling, located approximately 1km to the north east of the rural settlement of Bwlch y Ddar and to the west of the U5106 unclassified highway.

It is proposed to construct a two storey detached dwelling within the rural settlement of Bwlch y Ddar within the garden area of the dwelling known as Ty Brith. The dwelling measures approximately 13.5 metres (including single storey utility) by 6.8 metres (including porch) and 7.3 metres in height to the ridge. The dwelling would be double fronted with walls would be rendered with stone cladding on the utility and chimney with a natural slate roof. Vehicular access would be gained off the unclassified U2040 highway to the south of the application site.

Consultee Response

Llangedwyn Community Council

1st Response

Many thanks for sending us details of Planning Application P/2017/0098 for a dwelling at Ty Brith, Bwlchyddar, Llangedwyn.

However, our Community Council believes that this does not constitute a 'replacement' dwelling as it is not on the footprint of the original building – it is, in fact, over a kilometer away. We believe, therefore, that any building at Ty Brith, should be subject to the full planning policies and criteria appropriate for a stand alone property.

We are very concerned that a 'replacement' application, far removed from the original footprint, sets a dangerous precedent for unwarranted developments to 'replace' isolated, abandoned cottages in our area, of which there are many.

2nd Response

Many thanks for sending the amended plans for the planning application at Ty Brith, Bwlchyddar. Please note that the original comments from our Community Council still stand, ie that we cannot see this as a 'replacement' dwelling as it is over a kilometer away from the other building. We consider, therefore, that the application should be subject to the full planning policies and criteria appropriate for a new build property.

PCC Highway Authority

1st Response

The following conditions should be included on any permission granted:-

HC1 Prior to the occupation of the site 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.

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

HC4 Within 5 days from the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to a point 0.26 metres above ground level at the edge of the adjoining carriageway and 33 metres distant in both directions 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.

HC7 Within 5 days from the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 5.5 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

HC8 Prior to the occupation of the site, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom (in-line with CSS Wales) 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 Within 5 days from the commencement of the development 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 0.45 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

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

HC16 There shall only be a single vehicular and pedestrian access to serve the development hereby permitted.

HC21 Prior to the occupation of the dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance 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.

HC26 When installed there shall be a minimum clearance of 6 metres from the nearest part of the adjoining highway verge or footpath to any part of the septic tank or its soakaway installation.

HC27 The septic tank effluent in connection with the development hereby permitted shall not interfere or connect in any way with the highway surface water drainage or give rise to a nuisance upon the highway.

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.

Reasons

To ensure the safety and free flow of traffic using the adjoining county unclassified road.

2nd Response

I am aware of requests from owners/residents or users of this highway near Bwlchyddar to carry out maintenance and to improve the route in the past.

The route is an unsurfaced unclassified highway, and although it carries similar rights in terms of access to any other highway, the surface is not maintained to the same standard. There is still a duty on the highway authority to maintain, but this will be to a standard reasonable for such a route.

There is no duty on the authority to improve any highway, and from what I recall in respect of the service requests previously received it was improvement to the track surface, open drainage ditches and alignment that was sought.

PCC Building Control

Building Regulations application required.

Wales and West Utilities

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. 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 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.

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

Severn Trent Water

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

PCC Environmental Health

1st Response

The proposed foul drainage system does not comply with the Building Regulations. The drainage field needs to be sited at least 15m from buildings, and the drainage field cannot be located under paved areas or driveways. Therefore I must object to the application.

2nd Response

I am satisfied that the amended proposal is compliant with Building Regulations, therefore I have no objection to the application.

3rd Response

I understand that since my previous comment it transpires that the land intended to be used for the foul drainage field is not in the ownership of the applicant, permission for its use hasn't been granted by the landowner, therefore there are now amended drainage plans.

The new drawing states that it is the intention to double the depth of the drainage field in order to halve its surface area (footprint). This approach is not permitted by the Building Regulations, which is the approved method for non-mains foul drainage systems.

The Vp value of 87, derived from percolation tests at the site, demonstrates that while the ground conditions may be suitable for a drainage field this is towards the upper end of the permitted scale, which indicates that the ground is not free-draining. It is therefore important

that given the proximity of houses to the sewage system, and the limited space available to construct a drainage field, that it is carried out in full accordance with the Building Regulations to ensure that it can work effectively and not give rise to sewage problems at the ground surface.

I therefore must recommend refusal to this application in its current form on the grounds of protection of public health.

4th Response

Thank you for forwarding this amended foul drainage plan.

The design now complies with Building Regulations, therefore I have no objection to the application.

PCC Ecologist

Ecological Topic		Observations
EIA Screening Requirement	Not applicable	The proposal has already been screened by Powys County Council who have confirmed that EIA is not required (14/02/17).
Ecological Information included with application	No	<p>No ecological information has been submitted with this application. These observations are based on an interpretation of available aerial and street imagery and historical biodiversity records provided by the Powys Biodiversity Information Service.</p> <p>The site of the new development appears to be located within an existing private garden adjacent to other residential properties. The application may also involve the removal of existing materials from another property known as Belan Einion.</p>
Protected Species & Habitats¹	European Species	<p>There are historic records of various bat species from within 2km of the application site and a historic record (1992) of signs of a Lesser Horseshoe bat night roost from Belan Einion. The removal of existing materials from Belan Einion, or its demolition, could therefore result in impacts on any bat roost present.</p> <p>☒ No ecological information has been submitted with the application and it is considered that there is a reasonable likelihood of bat roosts being present given the historic record, proximity of trees and hedgerows and the age of the property. Therefore, it is considered that there is insufficient information with regard to potential impacts to bats, a European protected species, to determine this application.</p> <p>Therefore, in order to assess the potential impacts to</p>

¹ Species records within 1km (minimum). Change distance dependant on project type, scale, etc.

		<p>roosting bats, a preliminary assessment of the building for its bat roost potential and the potential for any impacts is required. This assessment needs to be undertaken by an appropriately experienced and licensed bat consultant. If this preliminary bat roost assessment identifies potential bat roosting opportunities and/or actual bat roosts that will be affected by the proposals then further bat survey work will be required. If bat access or roosts are found that will not be affected by the proposals a method statement must be submitted to demonstrate how the proposed works will avoid any impacts to bats.</p> <p>The preliminary bat roost assessment shall include a full internal and external inspection of the building and an assessment of how the proposed development works may affect any potential or actual bat roost features, as well as incorporating opportunities for bats within the completed development. The preliminary bat roost inspection must be undertaken by an appropriately experienced and licensed ecologist and must adhere to the Powys Bat Survey Guidance and the standard survey methodology published by Bat Conservation Trust.</p> <p>No other European protected species have been recorded within 2km nor are considered likely to be affected by the proposals.</p>
	<p>UK Species <input checked="" type="checkbox"/></p>	<p>The private garden appears to contain vegetation that could support nesting birds. Belan Einion could also support certain nesting birds, such as House sparrow, House martin and Barn swallow, all of which have been recorded within 2km of the application area.</p> <p>I therefore recommend that any site and vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p>
	<p>Section 7 Species & Habitat <input checked="" type="checkbox"/></p>	<p>The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>House sparrow, Dunnock and Starling have been recorded close to the application site previously and are Section 7 Priority Species in Wales. There appears to be suitable nesting habitat for House sparrow and Dunnock within the application site. I therefore recommend that House sparrow nesting boxes are incorporated within the</p>

		<p>development as a biodiversity enhancement measure.</p> <p>I understand that all substantial trees and hedgerows to be retained will be protected during the works (per paragraph 3.2.7 of the Design and Access Statement). A tree and hedgerow protection plan in accordance with BS5837:2012 will therefore need to be produced for the local authority's approval in advance of the works.</p> <p>The proposals to plant additional new hedgerows within the application site are welcomed as a biodiversity enhancement. Locally-occurring, native species will need to be used for this and a Species List will be required for approval by the local planning authority as part of a biodiversity enhancement plan for the site.</p>
	<p>LBAP Species & Habitat <input checked="" type="checkbox"/></p>	<p>Should existing materials be removed from Belan Einion, or it be demolished, I recommend that suitable nesting cups for Barn swallows and House martins (local species of conservation concern in Powys) are provided on the new development.</p>
Protected Sites	<p>International Sites² <input type="checkbox"/></p>	<p>None within the search area.</p>
	<p>National Sites³ <input type="checkbox"/></p>	<p>None within the search area.</p>
	<p>Local Sites (within 500m) <input type="checkbox"/></p>	<p>None within the search area.</p>
Invasive Non-Native Species	Unknown	<p>No ecological information has been submitted with this application.</p>
Cumulative Effect	Unknown / Unconfirmed	
Summary of recommendations / further assessment or work		<p>No ecological information has been submitted with the application and it is considered that there is a reasonable likelihood of bat roosts being present in Belan Einion given the historic record, proximity of trees and hedgerows and the age of the property. Therefore, it is considered that there is insufficient information with regard to potential impacts to bats, a European protected species, to determine this application.</p> <p>Therefore, in order to assess the potential impacts to roosting bats, a preliminary assessment of the building for</p>

² Identify International designated site within 2km of the proposals. Consider International sites within 15km of proposals with bats as qualifying features, and 10km with otters as qualifying features if the proposal is likely to affect these features.

³ Any designated sites within 500m of the proposal, extending to 2km dependant on features of interest i.e. wetlands (Powys LDP)

	<p>its bat roost potential and the potential for any impacts is required. This assessment needs to be undertaken by an appropriately experienced and licensed bat consultant. If this preliminary bat roost assessment identifies potential bat roosting opportunities and/or actual bat roosts that will be affected by the proposals then further bat survey work will be required. If bat access or roosts are found that will not be affected by the proposals a method statement must be submitted to demonstrate how the proposed works will avoid any impacts to bats.</p> <p>The preliminary bat roost assessment shall include a full internal and external inspection of the building and an assessment of how the proposed development works may affect any potential or actual bat roost features, as well as incorporating opportunities for bats within the completed development. The preliminary bat roost inspection must be undertaken by an appropriately experienced and licensed ecologist and must adhere to the Powys Bat Survey Guidance and the standard survey methodology published by Bat Conservation Trust.</p> <p>I recommend that any site and vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p> <p>I recommend that House sparrow nesting boxes and House martin and Barn swallow nesting cups are incorporated within the development as a biodiversity enhancement measure.</p> <p>I understand that all substantial trees and hedgerows to be retained will be protected during the works (per paragraph 3.2.7 of the Design and Access Statement). A tree and hedgerow protection plan in accordance with BS5837:2012 will therefore need to be produced for the local authority's approval in advance of the works.</p> <p>The proposals to plant additional new hedgerows within the application site are welcomed as a biodiversity enhancement. Locally-occurring, native species will need to be used for this and a Species List will be required for approval by the local planning authority as part of a biodiversity enhancement plan for the site.</p>
<p>Recommended Conditions</p>	<p>Should you be minded to approve this application, and subject to receipt of the additional information requested above, I recommend the inclusion of the following conditions:</p> <p><i>Prior to planning permission, a preliminary assessment of</i></p>

the building by an appropriately experienced and licensed bat consultant for its bat roost potential and the potential for any impacts on bats is required.

Reason: To comply with Powys County Council's UDP Policies SP3 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 the Environment (Wales) Act 2016.

Prior to commencement of development, a Biodiversity Enhancement Plan, including a Species List for the landscape planting and details of House sparrow nesting boxes, 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 ENV7 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 commencement of development a Tree and Hedgerow Protection Plan 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 the Environment (Wales) Act 2016.

Informatives

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,

	<p>six months imprisonment or both.</p> <p>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.</p> <p>Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)</p> <p>It is an offence for any person to:</p> <ul style="list-style-type: none"> • 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. <p>Under the Habitats Regulations it is an offence to:</p> <ul style="list-style-type: none"> • 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. <p>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</p>
<p>Relevant UDP Policies</p>	<p>SP3 Natural, Historic and Built Heritage ENV 2: Safeguard the Landscape ENV 3: Safeguard Biodiversity and Natural Habitats ENV 6: Sites of Regional and Local Importance ENV 7: Protected Species</p>
<p>Comments on Additional Information</p>	<p>N/A</p>

PCC Built Heritage Officer

1st Response

The house appears in good condition and is an example of local vernacular, so technically HP11 seeks its preservation. I am aware of similar properties that have been included on the statutory list, and note that this property is not listed. However the issue of the highway access cannot be ignored, and I am aware that planning permission would not be required simply to leave a property empty.

The proposed replacement house would not affect any built heritage assets and as such I would have no objection to the erection of the new dwelling. Whilst accepting that the original property cannot be occupied as a principle dwelling given the highway issues, it would be regrettable if the building was lost purely to either meet the policy requirements or as a source of building materials. It would be preferable if the building was just left, - with the appropriate conditions imposed on its use.

However, in an ideal world it would be desirable if the original house at Bwlch y Ddar were able to be retained in some form of good order. One possibility that I agree is outside the scope of the current application, would be the potential for the property to be used as a bunk house for walkers which would enable the continued repair of the building but without the requirement for a vehicular access. I understand that in the past there have been modest tourism grants for this type of proposal, however I am unaware of any current grants that may be relevant. However I accept that this is outside the remit of the current application.

I can confirm that I would have no objection to the current application, and if possible I would prefer that the original house not be demolished for either building materials or to satisfy the policy as that would enable its retention and either quiet decay, or should the opportunity arise in the future for a non-vehicular re-use the local vernacular building could be retained.

As the current proposal is for its demolition, I would ask that RCAHMW be consulted on the application if possible in case they wish to record the building prior to its demolition. It would be useful if you could send RCAHMW the photographs taken on site and potentially CPAT in case they would like to record the presence of the building on the HER prior to its demolition.

2nd Response

Thank you for consulting me on the above application and further to my comments by e-mail dated 8th March 2017.

Whilst having no objections to the new house in the location proposed, it would be preferable for the old house to be retained with appropriate conditions regarding its use.

Conservation Principles identifies the historic environment is defined in the document as an environment made up of individual historic features, archaeological sites and historic buildings as well as the landscapes in which they are found. Any part of the historic environment to which people have given a distinctive historical association or identity is considered here to be an historic asset.

The old house is not listed but could be considered as an historic asset.

TAN 24 advises (section 1.10) that Conservation Principles for the Sustainable Management of the Historic Environment in Wales (Conservation Principles) were published in 2011 and provide the basis upon which Cadw discharges certain statutory duties on behalf of the

Welsh Ministers. Conservation Principles should be used by others (including owners, developers and other public bodies) to assess the potential impacts of a development proposal on the significance of any historic asset/assets and to assist in decision making where the historic environment is affected by the planning process.

There are six principles.

1. Historic assets will be managed to sustain their values.
2. Understanding the significance of historic assets is vital.
3. The historic environment is a shared resource.
4. Everyone will be able to participate in sustaining the historic environment.
5. Decisions about change must be reasonable, transparent and consistent.
6. Documenting and learning from decisions is essential.

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

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

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

The old house appears in good condition and is an example of local vernacular, so technically HP11 seeks its preservation and in addition this would not appear to be the minimum consistent with achieving the objective as detailed in Conservation Principles and as such I would ask for consideration of its retention rather than demolition should the new house on a different site be considered acceptable.

In light of recent guidance by Cadw issued on 21 April which came into effect on 31 May in respect of Historic Environment Records, I have checked the Historic Environment Record on Archwilio and the old house is not on the historic environment record.

I can confirm that I would have no objection to the current application, and if possible I would prefer that the original house not be demolished for either building materials or to satisfy the policy as that would enable its retention and either quiet decay, or should the opportunity arise in the future for a non-vehicular re-use the local vernacular building could be retained.

As the current proposal is for its demolition, I would ask that RCAHMW be consulted on the application if possible in case they wish to record the building prior to its demolition. It would be useful if you could send RCAHMW the photographs taken on site and potentially CPAT in case they would like to record the presence of the building on the HER prior to its demolition.

Cadw

Thank you for your letter of 6 February 2017 inviting our comments on the planning application for the proposed development as described above.

The statutory role of Historic Environment Service (Cadw) 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. It is a matter for the local planning authority to then weigh our assessment against all the other material considerations in determining whether to approve planning permission, including any issues concerned with listed buildings and conservation areas.

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.

Clwyd Powys Archaeological Trust (CPAT)

Thank you for the consultation on this application.

I write to confirm that there are no archaeological implications for the proposed development at this location.

Representations

Following display of site notices, five public representations have been received and are summarised as follows:

- Government has introduced new policies which state that brownfield sites should be the priority rather than gardens;
- This 3 bedroomed, 2 bathroom, 2 car property is not an affordable dwelling;
- Local Development Plan Policies state that limited development to meet affordable need must be well integrated into the settlement and the dwelling at this location would not be well integrated into the area and would look out of place;
- The property being so close to Ty Brith is not in character with the area;
- The access road stated to require repair is in need of complete upgrading and it is not certain why Powys County Council have let it get into this state;
- Belan Einion has been empty for 15 years and in a state of disrepair (having been left to fall into disrepair) however it is not proven to be beyond realistic repair;
- There would not be an improvement in terms of highway safety with an increase in the amount of traffic visiting the area and the making of a vehicle access would be an added danger;
- Belan Einion is of a local vernacular character which should be reinstated;
- The proposed dwelling would not be adjacent to or in the footprint of the original dwelling and is some 1km away;
- There are other alternative sites with less impact;

- View from properties known as Bronhaul, Bethesda and Brynteg would be impacted (in terms of views);
- The visual amenity of the multiple poles and suspended wires to supply electricity, broadband and telephone should be considered;
- Dwelling will not fit into the layout of the settlement;
- Additional traffic, noise and light pollution;
- An attractive garden would be lost;
- The owners of Belan Einion should contribute towards the cost of repairing the Council highway or creating a private track;
- Loss of privacy;
- The proposed dwelling would be over 15% volume of the existing dwelling;
- Adverse visual impact of the development and from the centre of the settlement, a blank wall and chimney would be seen;
- Existing trees and hedgerows could not be retained;
- No mention of whether telephone box in highway verge is to be retained;

Planning History

No relevant planning history

Principal Planning Constraints

- Historic Landscapes Register Outstanding
- U5106 unclassified and unsurfaced highway
- U5106 unclassified highway
- Bwlch y Ddar is a rural settlement

Principal Planning Policies

National Planning Policy

Planning Policy Wales (Edition 9, November 2016)

TAN 1 - Joint Housing Land Availability Studies (2015)

TAN 5 - Nature Conservation and Planning (2009)

TAN 12 – Design (2016)

Welsh Office Circular 10/99: Planning requirements for non mains sewerage

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

Local Planning Policy

Powys Unitary Development Plan (March 2010)

UDP SP3 - Natural, Historic and Built Heritage

UDP SP5 – Housing Developments

UDP DC11 - Non-mains Sewage Treatment

UDP ENV2 – Safeguarding the Landscape

UDP ENV3 - Safeguarding Biodiversity & Natural Habitats

UDP ENV7 - Protected Species
UDP ENV6 - Sites of Regional and Local Importance
UDP GP1 - Development Control
UDP GP3 – Design and Energy Conservation
UDP GP4 - Highway and Parking Requirements
UDP HP1 – Housing Land Supply
UDP HP11 - Replacement of Habitable Dwellings
UDP HP3 – Housing Land Availability
UDP HP4 - Settlement Development Boundaries and Capacities
UDP TR2 - Tourist Attractions & Development Areas

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

Other Legislative Considerations

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

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

Public representations have referred to policies contained within the Local Development Plan. The Local Development Plan is currently in draft form with the examination by the Welsh Government in progress currently, therefore at this current time planning applications are determined under the adopted Powys Unitary Development Plan (2010).

This is a unique application whereby an open market dwelling is being proposed in a rural settlement with the justification being that it constitutes a replacement dwelling.

The key policy for replacement of habitable dwellings is UDP Policy HP11 whereby three criteria are used to assess proposals to replace existing habitable dwellings. The criteria include the resistance of the loss of a building of special architectural and/or historic or local vernacular character and encouraging proposals to lie within or adjacent to the footprint of

the existing dwelling with a volume increase not exceeding 15% of that of the original dwelling.

Public representations and the Community Council have raised concerns over the proposal's compliance with UDP Policy HP11, particularly in terms of the second two criteria.

In terms of the first criterion of UDP Policy HP11, Belan Einion is an uninhabited dwelling, however it is noted the council tax is paid on the property and the building is clearly recognisable as a dwelling in terms of its physical appearance. Therefore, it is considered that the dwelling has not been abandoned and therefore meets the first criterion of the policy.

In terms of criterion 2, the Council's Built Heritage Officer has advised that Belan Einion appears in good condition and is an example of local vernacular, however it is not a listed building. Therefore, on the basis of this advice, the proposal would result in the loss of a building of local vernacular character which is substantially intact and as such consideration must be given to whether the building is beyond realistic repair. The application includes no information on why the dwelling itself is beyond realistic repair and states that the dwelling is substantially intact as was noted during the site visit. Such information would include costings for repair, however the submission puts forward the case that the dwelling is beyond realistic repair because the condition of the public highway to enable access to Belan Einion is such a poor physical condition that any development at Belan Einion is unviable. Limited information has been included within the submission in respect of the repair of the highway, however information was provided at pre planning application stage in terms of the cost of upgrading the unsurfaced and unclassified highway and the poor physical condition of the highway was witnessed at the site visit. It is considered that the problem in accessing the existing dwelling from the public highway could constitute a particular problem that would be resolved by the proposal and therefore could meet criteria 2 and 3 of UDP Policy HP11, however no detailed financial information and details relating to the highways situation is included within the submission and it is not known whether the costings provided at the pre planning application stage include repair of the highway to full highways standards or just to hard core standard. Public representations have also drawn the Planning Authority's attention to the Highways Act where it is stated that the Highway Authority can be forced

In terms of criterion 3, the replacement dwelling would not lie within or adjacent to the footprint of the original dwelling because it is proposed to construct the replacement dwelling within the rural settlement of Bwlch y Ddar, some 1km distant. However, criterion 3 allows for a change in position where there would be an improvement in terms of highway safety, visual and landscape impact or in solving a particular problem. As stated above, it is considered that the problem in accessing the existing dwelling from the public highway could constitute a particular problem that would be resolved by the proposal and therefore could meet criterion 3 of UDP Policy HP11, however insufficient information has been submitted to evidence this issue.

The application site area includes the existing dwelling, Belan Einion and the proposed location of the new dwelling and as such given that it is proposed to leave the existing dwelling in situ, if approval was recommended it would be recommended that the residential use of the existing dwelling would be removed by condition.

Public representations have also referred to the proposed dwelling being in excess of the scale of an affordable dwelling which is normally the only dwellings permitted in rural

settlements such as Bwlch y Ddar. The internal floor space of the dwelling measures at less than 130 square metres and as such, if proposed as an affordable dwelling, this scale would comply with the Council's affordable housing criteria set out in the affordable housing policies of the UDP. Given that the proposal is put forward under UDP Policy HP11, the new dwelling is not required to be restricted as an affordable dwelling, subject to compliance with UDP Policy HP11. As noted within the public representations, the submission does not include an indication of the scale of the existing dwelling for comparison in terms of scale.

Given the distance between the existing dwelling and that which is proposed Officers consider it necessary to consider the dwelling as a wholly new open market dwelling in a rural settlement. As such, UDP Policy HP4 applies and states that '*outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9*'. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered a departure.

Housing Land Supply

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

In considering a departure from the Powys Unitary Development plan policies consideration must be given to the location of the proposed development in terms of the sustainability of the development. Account should be given to the range of services and facilities available within close proximity to the site.

Bwlch y Ddar is defined in the UDP as a rural settlement. Bwlch y Ddar has very limited services however is within approximately 2 miles of both Llangedwyn and Llanfechain. Llangedwyn is a small village which is served by a place of worship, and school. Llanfechain is also a small village which is to be upgraded to a large village in the emerging LDP benefits from a range of services such as shop, post office, school, places of worship etc. Bwlch y Ddar is also approximately 2.8 miles from Llanfyllin, defined as an Area Centre in the UDP and provides a wide range of services.

Therefore, on balance Officers consider that an additional residential development in this location would accord with the provisions of Planning Policy Wales as it is considered to be a sustainable location.

Design and impact upon character and appearance of locality

In terms of the proposed siting of the replacement dwelling in the rural settlement of Bwlch y Ddar, the site is clearly integrated within the settlement, being located within the cluster of dwellings considered to form part of the settlement. Public representations have raised concern over the impact of the development in terms of the density, the scale of the dwelling, the design and materials and the orientation of the dwelling. Bwlch y Ddar is a settlement where the dwellings are predominantly detached two storey dwellings with the frontages facing the highways.

The proposed dwelling measures approximately 13.5 metres (including single storey utility) by 6.8 metres (including porch) and 7.3 metres in height to the ridge. The dwelling would be double fronted with walls finished in render with stone cladding on the utility and chimney with a natural slate roof.

Officers acknowledge the concerns raised by third parties however consider that the proposed design of the dwelling and the materials used would integrate well in to the settlement and would not detract from the character and appearance of the area.

As such it is considered that the proposed development fundamentally complies with policy GP1.

Impact upon amenities enjoyed by occupiers of neighbouring properties

The impact upon the amenities enjoyed by the occupants of neighbouring properties and the proposed dwelling itself will be a key consideration of the application. The site of the proposed dwelling is located within close proximity to a number of dwellings and as such it is advised that consideration is given to compliance with the privacy, overlooking and daylight standards advised within the Powys Residential Design Guide.

The adjoining property, known as Ty Brith, to the north east of the site is located at a slightly higher level than the application site. The dwelling is orientated so that its primary elevation faces south east. The proposed dwelling would be located to the south of Ty Brith and the rear of the proposed dwelling would be located a minimum of 15 metres from Ty Brith, however the proposed dwelling is not located directly in front of Ty Brith and would not be located directly to its front. Other nearby residential dwellings are Bronhaul, Bethesda and Tan y Lliidiart which would be located 25, 27 and 30 metres respectively from the proposed dwelling.

Given the distance maintained and the change in topography it is considered that there would not be a detrimental impact to the amenity of either the existing or proposed dwellings.

Ecology

Given the location and nature of the existing dwelling, it is considered that there is potential for the dwelling to accommodate protected species, in particular bats. If materials from the existing dwelling were to be used, it is advised that an ecology survey is included within the submission.

Ecology requested that works were undertaken to assess the potential for bat roosting opportunities within the existing dwelling. However, there are no plans to demolish the dwelling following discussion with the Built Heritage Officer. As such, as the original dwelling will remain it not considered necessary to require this information to be submitted.

With regards to the location of the proposed dwelling, the only comments made are in relation to the existing shrubbery and hedgerow on the site. No request for additional information was made for the proposed site subject to conditions requiring the submission of a tree and hedgerow protection plan.

As such it is considered that the proposed development fundamentally complies with the relevant UDP policies and Technical Advice Notes.

Highway access and parking requirements

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking. The Highway Authority were consulted on the application and offered no objection to the location of the new dwelling and its proposed access.

In light of the highways officers comments it is considered that the proposed dwelling fundamentally comply with Policy GP4 of the Powys Unitary Development Plan 2010.

Foul drainage

Policy DC11 requires applicants to demonstrate that foul sewerage can be adequately controlled. The application proposes the installation of a package treatment plant along with foul drainage soakaways.

Following consultation with Environmental Health initial concerns were raised regarding the level of detail submitted and the fact that the solution would not be acceptable for building regulation purposes.

Following the submission of additional information and plans Environmental Health were content that the information submitted demonstrated a system that would be in compliance with building regulations and offered no objection to the proposed development.

As such it is considered that the proposed development would fundamentally comply with policy DC11 of the Powys Unitary Development Plan.

Recommendation

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

Conditions

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans stamped as approved (drawing no's: L01, PL01, PL02, PL03, PL04 and the Design and Access Statement).
3. Notwithstanding the provisions of Article 3 and Parts 1 and 2 of the Second Schedule to the Town & County Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no development as specified in Part 1 (Classes A, B, and E) other than such development or operations indicated on the plans approved, shall be carried out without the prior written consent of the Local Planning Authority.
4. Prior to their first use full details or samples of materials to be used externally on walls and roofs including fenestration details shall be submitted to and approved in writing by the Local Planning Authority.
5. Prior to the occupation of the site 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.
6. 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.

7. Before any other development commences the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to a point 0.26 metres above ground level at the edge of the adjoining carriageway and 33 metres distant in both directions 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.
8. Before any other development commences 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.
9. Prior to the occupation of the site, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom (in-line with CSS Wales) 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.
10. Before any other development commences 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 0.45 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.
11. The width of the access carriageway, constructed as Condition 8 above, shall be not less than 5.5 metres for a minimum distance of 5.5 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.
12. There shall only be a single vehicular and pedestrian access to serve the development hereby permitted.
13. Prior to the occupation of the dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance 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.
14. When installed there shall be a minimum clearance of 6 metres from the nearest part of the adjoining highway verge or footpath to any part of the septic tank or its soakaway installation.
15. The septic tank effluent in connection with the development hereby permitted shall not interfere or connect in any way with the highway surface water drainage or give rise to a nuisance upon the highway.

16. Upon formation of the visibility splays as detailed in 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.
17. No storm water drainage from the site shall be allowed to discharge onto the county highway.
18. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.

Reasons

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
3. To accord with policy GP1 and GP3 of the Powys Unitary Development Plan (March 2010).
4. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the building in accordance with policies GP1 and GP3 of the Powys Unitary Development Plan (2010), the Councils Residential Design Guide (2004) and Planning Policy Wales (Edition 9, 2017)
5. To accord with policy GP4 of the Powys Unitary Development Plan (March 2010)
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18. 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.

Informative Notes

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

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