

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2017/1311	Grid Ref:	310343.22 306093.67
Community Council:	Llanfair Caereinion	Valid Date:	Officer: 08/11/2017 Eddie Hrustanovic
Applicant:	NL & KM Griffiths, Tanyfron, Broncafnt Lane, Llanfair Caereinion, Powys, SY21 0BW.		
Location:	Land South of Broncafnt Lane, Llanfair Caereinion, Powys, SY21 0RF.		
Proposal:	Outline: Erection of 3 no. dwellings and associated infrastructure including installation of sewage treatment plant (some matters reserved)		
Application Type:	Application for Outline Planning Permission		

The reason for Update

This report forms an update to the previous report circulated to Members.

Additional comments have been received from the applicant following publication of Officers' report and a letter of support has also been received from a local resident.

Furthermore, the Applicant's solicitor has requested that the section 106 be reworded to extinguish the current commercial use of Tanyfron prior to commencement of any works, as this will provide the Applicant with some additional flexibility, the users of the Nursery with sufficient time to make alternative arrangements for their children and also ensures that the section 106 agreement would not conflict with the recommended conditions (2 and 3) identified in the Officers report.

Representations

The applicant has requested that additional clarification is provided to the Members;

"The Officer report on the above application has made reference to the significant highway safety betterment that would result from the proposed development and the Highways Authority response to the application identifies that "The Highway Authority are in agreement to the applicants proposed trade off of movements associated with the permanent closure of the Children's Nursery located at Tanyfron".

Nonetheless, the recommendation for approval of the application contained in the report refers only to the provision of housing outweighing the Development Plan.

It is the Applicant's contention that the significant highway safety betterment that will result from the trade-off is the most significant material consideration in favour of the proposed development and that this consideration, in itself, is sufficient to outweigh any potential

conflict with the provisions of both the Powys Unitary Development Plan and the emerging Local Development Plan.

This is demonstrated by the fact that the Applicant originally entered into discussions with the Highways Authority in 2011 and agreed the principle of a residential development along Broncafnant Lane based on a traffic trade off. This was subsequently confirmed in discussions with the Highway Authority in 2014, in pre-application correspondence with the Highways Authority in 2016 and again in a site meeting between the Applicant and Officers from the Highways Authority in November 2017. Dialogue and negotiations therefore stretch back over six years, to a time when Powys had recently adopted the Unitary Development Plan and benefitted from a 5 year housing land supply. The Highway Authority officers agreed at the site meeting of November 2017 that they would support a development of three houses if the Nursery was closed.

We therefore consider it essential that Members of the Planning Committee consider details of the significant highway safety betterment proposed in the application prior to the determination of the planning application.

The proposed application has been submitted primarily on the basis that it will provide significant highway safety benefits along Broncafnant Lane and, in particular, to the Western end of Watergate Street around two particularly sub-standard road junctions, as follows:

Along Broncafnant Lane:

For 50% of the Lane to the East of P/2017/1311 - 100% reduction in traffic volumes generated by the Nursery along the length of the Lane from the Nursery to the proposed development. This includes a 100% reduction in traffic generated by the Nursery which currently passes some two metres in front of Broncafnant Cottage - which is why its owner has written in supporting the application.

For 50% of the Lane to the West of P/2017/1311 – the proposed development's traffic generation is between 37.5% and 50% lower than that generated by the Nursery.

At the Broncafnant Lane/Watergate St Junction:

The proposed development's traffic generation is between 37.5% and 50% lower than that generated by the Nursery.

Around the Dental Practice/Watergate St Junction - which is located immediately adjacent to the Broncafnant Lane/Watergate St Junction:

The two junctions are separate by 3 - 4 metres. Photographs of the junctions have been provided in the supporting statements. The proposed development's traffic generation is between 37.5% and 50% lower than that generated by the Nursery.

These large reduction in traffic volumes would be achieved as a result of a traffic trade off from the closure of Tanyfron Nursery and the building of three houses.

The trade-off figures are calculated using the TRICS standard provided by the Highways Authority and based on an upper limit of 11 children at Tanyfron Nursery. The Nursery is in

fact licensed by the CSSIW for 12 children but, at the November 2017 site meeting the Highways Authority officers requested a figure of 11 be used in the calculation of the trade off figures. The Applicant agreed to do this. It is clear from the figures that the proposed application would provide a large reduction in traffic volumes - and a consequent significant betterment in highway safety - along Broncafnant Lane and, in particular, at and around two very sub-standard traffic junctions with Watergate Street.

The issue of residential development delivering significant highway improvements is addressed in the following extant and emerging Development Plan policies:

- UDP Policy SP6 - Development and Transport: which identifies that development which would maintain and improve the transportation infrastructure and communications in Powys will be acceptable; and*
- LDP (Composite Version, Sept. 2017) Policy T1 - which identifies that transport infrastructure improvements will be supported where they promote sustainable growth and maximise the efficiency and safety of transport systems.*

Highway safety betterment has also been a significant material consideration in the determination of a number of other planning applications, including Powys' recent approval of application P/2016/0324 which proposed a reduction in traffic movements due to the change in the use of the site. This application was not supported by the Highways Authority - for reasons which included the absence of supporting information around traffic reductions - and recommended for refusal by the Case Officer. Nevertheless, the application was approved. My client's proposed application is for a much smaller development than P/2016/0324, includes a detailed analysis of the large reductions in traffic volumes, is supported by the Highways Authority and is recommended for approval by the Case Officer.

Also, it is because of these large reductions in traffic volumes, and the consequent significant betterment to highway safety, that the proposed application is supported by Llanfair Caereinion's Town Council, the Local Member and the residents along Broncafnant Lane - in addition to the support of the Highways Authority. In light of this, we consider that the large traffic volume reductions and consequent significant highway safety betterment gains should be the major - and ultimately the over-riding - material consideration in the determination of the proposed application.

It is therefore respectfully requested that the Planning Committee also support the proposed development in order that it may deliver the resultant significant highway safety betterment to the benefit of residents and visitors to the town alike”.

Recommendation

Having carefully considered the proposed development, on balance Officers consider that the proposal broadly complies with planning policy. Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies.

The recommendation is therefore one of conditional approval subject to conditions as specified below and a separate section 106 Agreement to extinguish the current commercial use of Tanyfron Nursery **prior to commencement of any development at the site;**

1. Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out in accordance with the plans stamped as approved on xxxx in so far as the extent of the application site is drawn and the access points onto Broncafnet Lane (drawing number: SA 25380 02).
5. Upon the submission of the reserved matters referred to within Conditions 1 and 2, the landscaping details shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year defects period.
7. Prior to the construction of the dwellings hereby approved details and/or samples of the materials to be used in the construction of the external surfaces of the dwellings shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
8. Prior to the occupation of any dwelling any entrance gates shall be set back at least 5.5 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
9. The gradient of the accesses shall be constructed so as not to exceed 1 in 15 for the first 5.5 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
10. The centre line of the first 5.5 metres of the access roads measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

11. Prior to the commencement of any other works, the accesses shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the accesses and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 34 metres distant in each direction measured from the centre of the accesses along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the areas of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

12. Prior to the commencement of any other works, the area of the accesses 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.

13. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom excluding any garage space provided together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

14. Prior to the commencement of any other works, provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

15. The width of the accesses carriageway, constructed as per above conditions, shall be not less than 4.1 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.

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

17. Prior to the commencement of the development any existing means of access shall be stopped up, in materials to be agreed in writing by the Local Planning Authority and this shall be retained for as long as the development is in existence.

18. 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 package treatment plant or its soakaway installation.

19. The package treatment plant 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.

20. All surface water run-off is to be collected and discharged via a piped system to a soakaway located within the site no less than 6 metres from the highway. This system shall be retained and maintained for as long as the development remains in existence.

21. Upon formation of the visibility splays as detailed in above conditions the centreline of any new or relocated hedge/fence/wall 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.

22. No storm water drainage from the site shall be allowed to discharge onto the county highway.

23. Prior to commencement of development a Tree and Hedgerow Protection and Replacement 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.

24. Prior to commencement of development a Pollution Prevention Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.

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

26. The development hereby permitted shall not commence until an assessment is carried out into the potential for disposing of surface water by means of sustainable drainage systems (SuDS) in accordance with the principles set out in Technical Advice Note 15: Development and Flood Risk, and the results of the assessment provided to the local planning authority. Where a SuDS scheme is to be provided, the submitted details shall:

a. Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures to be taken to prevent pollution of the receiving groundwater and/or surface waters;

b. Specify the responsibilities of each party for the implementation of the SuDS scheme, together with a timetable for that implementation; and

c. Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for the adoption by any public authority or statutory undertaker or other arrangements to secure the operation of the scheme throughout its lifetime.

Reasons

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.

2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. To ensure a satisfactory and well planned development, to ensure protection is afforded to mature trees on the southern boundary of the site and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with Policies GP1 and ENV2 of the Powys Unitary Development Plan (2010).
6. To ensure a satisfactory and well planned development, to ensure protection is afforded to mature trees on the southern boundary of the site and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with Policies GP1 and ENV2 of the Powys Unitary Development Plan (2010).
7. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the buildings in accordance with policies GP1 and GP3 of the Powys Unitary Development Plan and the Councils Residential Design Guide.
8. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
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22. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
23. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.
24. To comply with Powys County Council's UDP Policies ENV3 and ENV6 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.

25. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.

26. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate 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).

Informative

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 0345 1300 228 or email enquiries@bats.org.uk

Reptiles – Wildlife & Countryside Act 1981 (as amended)

All species of reptiles known to occur within Powys, namely the common lizard, slow-worm, grass snake and adder, are protected under the Wildlife and Countryside Act 1981 (as amended).

It is therefore an offence to:

- Intentionally kill or injure these species of reptiles,
- Trade (live or dead animals) i.e. sale, barter, exchange, transporting for sale and advertising to sell or to buy.

The maximum penalty that can be imposed - in respect of each offence - is a fine of up to 5,000 pounds, six months imprisonment or both.

In addition these species of reptiles are also listed in Part 1 Section 7 of the Environment (Wales) Act 2016 – which is a list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales. Species of reptiles known to occur in Powys are also listed as Species of Conservation Concern on the Powys LBAP.

If reptiles are discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and/or the Council's Ecologist.