

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

### UPDATE REPORT

**Application No:** P/2017/0098                      **Grid Ref:** 317094, 322248

**Community Council:** Llangedwyn                      **Valid Date:** 02/02/2017      **Officer:** 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

#### Representations

##### Objector to scheme

Correspondence received 9<sup>th</sup> March 2018

#### **THE ATTENTION OF PLANNING COMMITTEE P/2017/0098**

##### **To whom it may concern**

**It was my intention to speak before you at the cancelled meeting on the 2/03/2018 but due to this new date I am unable to attend. I will unfortunately be several hundred miles away.**

**I realise that not being there in person does not have the same sway as a letter but I ask that you give it your utmost attention.**

**Mr Chairman,**

**It was my intention to run through all of my previous representations since this application some 13 months ago.**

**However having read the agenda for this meeting I can see that several of these have been raised within it. These are however one line responses and cannot fully allow the committee to make an objective decision.**

**I therefore wish to re-emphasize the following points :—**

**1.. Application does not comply with Development Plan or Powys UDP 2010 for the area and therefore is a departure.**

**2. Criteria for HP11** It is claimed access road to Belan Eimion is in a state of disrepair that would constitute a particular problem and could meet Criteria 2 and 3.

I agree the access road is in a poor state of repair but this situation could and should have been resolved.

The Highways Act 1980 Sec 56 allows for complainants to enquire of the local authority if they have responsibility to maintain such a road and if this is the case then they can approach Magistrates to order repairs. I have enquired and Mr Knox of the highways dept confirmed they were responsible.

In 2009 and 2010 the Applicant and Highways Dept held meetings and site visits and it was agreed repairs would be made, however after minor repairs were made a breakdown in communications meant nothing further was done. Now some 8 years later the applicant is trying to use these road conditions to replace Belan Eimion.

**3.** On the initial plans submitted by the applicant it can be seen that a double dotted line runs from the rear of Belan Eimion to a point on a fully serviceable road. This road is paved and tarmaced and serves other properties. This dotted line is the site of previous access to Belan Eimion in the form of a track across land owned by the applicant. This track still exists and could with little upkeep give full access to allow repairs to the house and for residents vehicles.

PCC/ECR PLANNING

**4.** There are numerous points where a new track from Belan Eimion could be formed leading to a paved highway. This would be over land owned by the applicant and would be similar to houses they already own. There would be far less of an impact than the proposed location.

#### **TO FINISH:**

Belan Eimion is property of local vernacular, not beyond realistic repair and should be made good.

Replacement would not lie within or adjacent to original footprint but some 1 km distant.

Allowing such a replacement sets a precedent to replace other isolated cottages of which there are many.

**Being considered as a wholly new open market dwelling it does not comply with UDP Policies, HP6, HP8, HP9 and Powys Councils lack of building land should not be used as a reason for granting permission.**

**It appears every conceivable loophole is being sought and exploited and the conditional consent given is based on these.**

**I ask that the committee after reviewing all these factors agree that this application is attempting to manipulate current planning laws and that you refuse to grant full planning permission.**

**Thank You.**

**Michael Ogrady  
Bronhaul,  
Bwlchyddar,  
Llangedwyn, Powys. SY10 9LL**

Agent response

*Correspondence received 14<sup>th</sup> March 2018*

Dear Chairman

This document has been prepared in response to Mr Ogrady's letter to the Chairman.

The application before you benefits from officer recommendation for approval and whilst I would like to have the opportunity to speak at committee in support of the application, I understand that I am only permitted to respond to the points raised by Mr Ogrady in his letter to The Committee.

To that end, I shall avoid repeating what has already been addressed within the Committee report.

Mr Ogrady has raised issue with the highway, the prospect of an alternative access, the planning principle and exploitation/manipulation of the applicant.

I will deal with the exploitation and manipulation claim as my first port of call as this is what distresses me the most. The applicant has spent over **10 years** in trying to achieve a successful outcome for Belan Einion. Every avenue has been explored, including the advertising/offering of letting of Belan Einion for 20 years plus at a peppercorn rent. The applicant even accepted a proposal put forward as a result of the advertising campaign, but this could not proceed because the potential party was unable to identify a way to (A)viably improve access to the premises and (B) upon speaking to tradesmen, to bring the property to a habitable standard owing to the cost in getting materials to the site, aside from any access improvement. Indeed it was joked- at the time that the only realistic way of getting materials to site at the time was via helicopter! Unfortunately, and with many wasted hours and

meetings, Belan Einion remains uninhabited due to the dire state of the existing access. Powys Council's planning department were approached by way of a formal pre-application enquiry in January 2016 whereby we set out the issue of the public highway, the history of correspondence with Powys highways department and the genuine question as to what could be achieved for Belan Einion under planning policy, given the constraint of the highway.

The upshot of the pre-application enquiry was that an application could be pursued for a replacement dwelling within the settlement of Bwlch y Ddar as Policy H11 (Criterion 3) allows for replacement dwellings to be constructed out of the original site boundary if there is an improvement in terms of highway safety, visual and landscape impact or in solving a particular problem. It was therefore advised that the problem in accessing the existing dwelling from the public highway would constitute a particular problem that would be resolved by the proposal and therefore could meet criterion 3 of UDP Policy HP11.

The concept of the application being considered as 'exploitation/manipulation' is a far cry from the truth of the circumstance whereby the applicant and Powys Council have both acted with an open book approach and it has further been demonstrated that despite attempting every avenue, this planning application was the last port of call.

Moving on to the access track Mr Ogrady has raised in point 3 of his letter. This was addressed during the processing of the application with the case officer. The access track to the west is an historic track which was in place long before the trappings of modern life and vehicles and so forth. The access to the track referred is also not owned and therefore third party rights would need to be secured, from the owners at Pen-yr-Allt. Coupled with the ownership issue, the track would cost more to bring up to standard than the Powys Highway due to the terrain and impassibly steep gradient. The costs and practicalities of utilising this ancient access make the concept a complete non-starter.

Mr Ogrady notes in Point 2 of his letter that our investigations came to a standstill with Powys Highways 8 years ago and that we are now attempting to use the road conditions as the basis of our case for the replacement dwelling. This is correct. We have exhausted every avenue to try and bring habitation back to Belan Einion, but the issue of the highway is the stumbling block as it is impossible for anyone to gain access in terms of construction vehicles and also private vehicles for habitation going forward.

The background has been well documented within the planning application, but to summarise for the benefit of our response, in May 2009, Adrian Jervis, Shire Engineer of Powys Council confirmed by letter that Powys Council's *'intention is to carry out appropriate maintenance to the unmettalled section of highways as such time when frequent access to Belan Einion is required'*. Notice was duly given regarding the impending occupation of the property to Adrian Jervis on 10<sup>th</sup> September 2010. Following such confirmation, a meeting was held on site (October 2010) with Mr A Jones of Local Environment Services. At this meeting, (as confirmed by letter from E Sample 20/05/2011) Mr A Jones confirmed that *'repair work would be carried out in two stages, Stage 1), being to put the road in order to allow a temporary access with particular reference to clearing the drains in order to take the water away from the road (work to be completed within one month) and Stage 2) to be completed in the spring to re-lay the road to allow vehicles to access Belan Einion on a permanent basis and allow development of the property to take place.'* Following this, some minor loads of stone were laid on the track, which resulted in no positive impact on the road whatsoever. Correspondence broke down between the Council and no definitive explanation for lack of

progress was reached. Since that time, more avenues have been explored in respect of securing new occupiers, but in Powys' absence of carrying out the required works, nobody has been willing to spend £250,000 to access a property which needs a further £150,000 spending on it. Particularly given the fact that the expenditure would never be recouped from the sale of the property as the value would be too low.

The proposal has been considered carefully by Powys Council and has been taken to committee with officer support. The case is undoubtedly unique, but Policy H11 (Criterion 3) does allow for replacement dwellings to be provided off site where circumstances dictate. It is a genuine proposal that we have worked through with Powys Council from the pre-application process and it is hoped that the Committee can appreciate the circumstances of the proposal and take the officers recommendation for approval on board.

Thank you for your time in reading the above

Kind Regards

Charlene Sussums-Lewis MRICS Associate Member RTPI  
Associate

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