

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: P/2018/0725 **Grid Ref:** 310683.45 291656.14

Community Council: Newtown and Llanllwchaiarn **Valid Date:** 18/07/2018 **Officer:** Gemma Bufton

Applicant: Powys County Council, Affordable Housing Team.

Location: Former Bowling Green Site, Back Lane, Newtown, Powys, SY16 2NH.

Proposal: Section 73 application to vary conditions 2, 4 and 5 of approved planning permission P/2016/0466

Application Type: Application for Removal or Variation of a Condition

The reason for Committee determination

The applicant is Powys County Council and therefore is required to be determined by Members of the Planning Committee.

Site Location and Description

The application site is located within the settlement development limits for Newtown and Llanllwchaiarn. The site is located at the former Bowling Green Site which is located with the County Class II Highway the B4368 running to the east of the application site. To the north is the existing and remaining bowling- green site including club house which to remain, to the west is a public car park whilst to the south is Newtown Bus Station.

Consent was sought under planning application P/2016/0466 for the erection of 24 flats and was granted consent on the 29th March 2017 under delegated powers. The site has now been purchased by Powys County Council and therefore this application is required to be determined by Members of the Planning Committee.

Consent is now sought under a Section 73 application to amend conditions 2, 4 and 5 under that approval.

Consultee Response

Newtown and Llanllwchaiarn Town Council-

No comments received at the time of writing this report.

PCC Highways-

The County Council as Highway Authority for the County Class II Highway, B4368

Wish the following recommendations/Observations be applied

Recommendations/Observations

The Highway Authority have considered the proposed revisions to P/2016/0466 and advise that we do not wish to comment on the application.

Wales and West Utilities-

Please find enclosed a copy of the requested plan and our general conditions, for your reference.

Our records show those pipes owned by Wales & West Utilities (WWU) in its role as a Licensed Gas Transporter (GT). Service pipes, valves, syphons, stub connections, etc. may not be shown but their presence should be anticipated. No warranties are therefore given in respect of it. They also provide indications of gas pipes owned by other GTs, or otherwise privately owned, which may be present in this area. This information is not information of WWU and WWU is unable to verify this information or to confirm whether it is accurate or complete.

The plan must be printed in A3 size and will also need to be produced in colour. If this is not possible, we can send you a hard copy if requested.

Severn Trent Water-

No response received at the time of writing this report.

PCC Environmental Health-

Environmental Protection has no objection to this application.

PCC Ecologist-

Thank you for consulting me with regards to planning application P/2018/0725 which concerns a section 73 application to vary conditions 2, 4 and 5 of approved planning permission P/2016/0466 at Former Bowling Green Site, Back Lane, Newtown.

I confirm that there are no ecological implications for the amendments of condition 2,4,and 5 from planning approval P/2016/0466.

However, should you be minded to approve the application I recommend inclusion of the following informative:

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.

National Resources Wales-

NRW have no objection to the variation of condition 2 and 4. We have no comments to make regarding condition 5.

The applicant has submitted an amended plans and an updated FCA for the purposes of varying condition 2 and 4.

It is NRW's view, that the updated submissions are satisfactory for the purposes of the variation of condition 2 and 4.

Please do not hesitate to contact us if you require further information or clarification on any of the above.

Our comments above only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website: (<https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

CPAT-

Thank you for the consultation on this application.

I can confirm that the variation of the conditions will have no additional archaeological impact.

Representations

No letters of public representations have been received at the time of writing this report.

Planning History

P/2016/0466- Residential development of former bowling green to create 24 flats.

Principal Planning Constraints

Flood Zone

Principal Planning Policies

National Planning Policy

Planning Policy Wales (Edition 8, 2016)

Technical Advice Note 1: Joint Housing Land Availability Studies (2015)

Technical Advice Note 2: Planning and Affordable Housing (2006)

Technical Advice Note 5- Nature Conservation and Planning (2009)

Technical Advice Note 11- Noise (1997)

Technical Advice Note 12: Design (2016)

Technical Advice Note 15: Development and Flood Risk (2004)

Technical Advice Note 18: Transport (2007)

Technical Advice Note 23- Economic Development (2014)

Technical Advice Note 24- The Historic Environment (2017)

Local Planning Policies

Local Development Plan (2018)

SP1- Housing growth

SP3- Affordable Housing Target

SP5- Settlement Hierarchy

SP6- Distribution of Growth across the Settlement

SP7- Safeguarding of Strategic Resources and Assets

DM2- The Natural Environment

DM4- Landscape

DM5- Development and Flood Risk

DM6- Flood Prevention Measures and Land Drainage

DM7- Dark Skies and External Lighting

DM13- Design and Resources

H1- Housing Development Proposals

R3- Development within Town Centre Areas

C1- Community Facilities and Indoor Recreation Facilities

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note
LDP=Powys Local 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

By way of background to the application site consent was granted under planning application P/2016/0466 for the residential development of the former Bowling Green to create 24 flats. Whilst this application was determined under the Unitary Development Plan there is considered to be no material changes in policy given that the above application is currently extant and therefore development can commence at any given time.

Under this Section 73 application consent is therefore sought to amend conditions 2, 4 and 5. The respective conditions state as follows:

2. *The development shall be carried out strictly in accordance with the plans stamped as approved on 29/03/2017 (Q111.1.3.01, Q111.1.1.09A, Q111.1.1.11A, Q111.1.1.12A, Q111.1.1.13A, Q111.1.1.16A, Q111.1.1.17A and Q111.1.1.18A).*

4. *The development must comply with the recommendations set out in section 5 of the Flood Consequence Assessment submitted with the application which was prepared by Civil Engineering Solutions Limited and dated April 2016 (Reference CES398).*

5. *The development must comply with the requirements of the Measures Only Travel Plan submitted with the planning application which was prepared by Entran Limited and dated April 2016.*

Condition 2- Design

With respect to design specific reference is made to LDP policy DM13 (Part 1). This policy indicates that development proposals will only be permitted where the development has been designed to complement and/or enhance the character of the surrounding area in terms of siting, appearance, integration, scale, height, massing, and design detailing.

Following the previous planning permission, amendments have been proposed to the layout and design for the proposed flats. Whilst it is considered that the amendments to the layout are seen to be minimal and therefore not having an unacceptable impact on the surrounding area, the design changes are somewhat different.

It is noted that the flats have now been designed with gable design features with an amendment to window layouts and also materials. The materials proposed are a zinc roof with fascias and guttering with larch cladding (with a natural finish) with argeton terracotta cladding with red clay facing brickwork and white through colour render. It is considered that the change in design and materials proposed have no further impact than that of the building previously approved. It is therefore considered that the design and materials proposed are seen to be in keeping with the surrounding area and therefore acceptable within this location.

It is therefore considered that the proposed development fundamentally complies with relevant planning policy.

Condition 4- Flood Consequence Assessment

The application site is located within a C1 flood zone as identified under the Development Advice Maps for Technical Advice Note 15 (TAN 15). In accordance with TAN 15 under planning application P/2016/0466 a Flood Consequence Assessment (FCA) was submitted in support of the application. NRW were consulted and confirmed they had no objection to the proposed subject to the inclusion of Condition 5 as listed above.

An amended FCA has now been submitted in support of the application given the amendments proposed with regards to the layout, NRW have been consulted and have confirmed that they have no objection to the proposed amendments and the updated FCA.

It is therefore considered that the proposed development fundamentally complies with relevant planning policy.

Condition 5- Highway Authority

A safe access and appropriate parking facilities is a fundamental requirement of any development in accordance with T1 and DC13 of the Local Development Plan.

Access to the site can currently be gained via an access onto Back Lane or via an access from within the County owned car park to the west of the development. There is no vehicular access proposed to serve the development and no vehicular parking is to be provided. Cycle storage is provided for each of the proposed residential units and the application has been accompanied by a transport statement.

The site is located within an area centre which provides good access to local services as well as to public transport opportunities. The development is also located adjacent to a large public car park. Whilst occupiers of the flats will have not have any priority within the car park, there is the opportunity for the car park to be used. In their consultation response under planning application P/2016/0466, the Local Highway Authority accepted that this site provides one of the best opportunities within Powys for a development not to be served by car parking facilities.

The Highway Authority has been consulted and has confirmed that they have no further comments to make on the proposed development. Subject to appropriately worded conditions it is therefore considered that the proposed development fundamentally complies with relevant planning policy.

Other Material Planning Considerations

Impact upon Heritage Assets

- *Setting of listed building*

The Authority is required have special regard to the desirability of preserving the listed buildings or their settings under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Technical Advice Note 24.

It is noted that there are a number of listed buildings in the vicinity of the site but none adjoining the application site. The proposal is considered to be in keeping with surrounding development and will not significantly detract from the Town Centre Area. In light of these matters and considering the context of the settings for the listed buildings in proximity to the site, it is not believed that the proposal will have any impact on the settings of these buildings.

- *Conservation Area*

Special attention must be given to the desirability of preserving or enhancing the character or appearance of the conservation area under section 72(1) of the planning (listed buildings and conservation areas) 1990. Newtown conservation area is located mainly to the south and west of the application site.

Although the proposed development will be visible from parts of the conservation area, these views would be at some distance and there would be existing intervening built form intercepting these views. Taking into account these factors, it is considered that the proposal would not significantly detract from the character or appearance of the conservation area in accordance with relevant planning policies.

- *Archaeology*

Planning application P/2016/0466 was accompanied by an archaeological evaluation which identified that although the development is located within the medieval historic core of Newtown, that no archaeology was identified. This amended application has also been the subject to consultation with CPAT who confirm that there are no archaeological implications for the proposed development.

Surface and Foul Water Drainage

It is proposed to connect to the public sewerage system which is the preferred method of disposal as set out in the LDP. Severn Trent Water has advised that they have no objection to the development and therefore Development Management is satisfied that the sewage disposal system has sufficient capacity to accommodate the additional flows generated as a result of the development. Severn Trent Water under planning application P/2016/0466 had

advised that a condition should be attached to any consent granted to require the details of the foul drainage and as such it is recommended that such a condition should be attached to any consent granted to ensure a satisfactory scheme can be accommodated.

In light of the above and subject to the recommended condition as per planning consent P/2016/0466 being attached to this grant of consent it is considered that the proposed development can be managed to an acceptable level.

Affordable Housing

A Section 106 agreement was previously agreed and signed in accordance with planning application P/2016/0466. The Section 106 agreement secured the provision of affordable housing and also a financial contribution is provided for the maintenance of a local park as no open space/play area has been provided with this application.

Given that a Section 106 agreement has previously been agreed and signed it is therefore recommended prior to the issuing of any decision notice a variation is completed in line with this planning application.

RECOMMENDATION

In light of the above and subject to the variation of the Section 106 agreement it is therefore considered that the proposed development fundamentally complies with relevant planning policy and therefore the recommendation is one of conditional consent.

Conditional Consent

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 on XXXXXXXX.
3. The finish floor levels of all habitable areas must not be set below 107.08m AOD.
4. The development must comply with the recommendations set out in the Flood Consequence Assessment submitted with the application which was prepared by Civil Engineering Solutions Limited and dated May 2018 (Reference CES503).
5. The development must comply with the requirements of the Measures Only Travel Plan submitted with the planning application which was prepared by Entran Limited and dated April 2018.
6. No development shall commence until a scheme for the surface water drainage of the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before any residential units are occupied. The scheme to be submitted shall show foul drainage being connected to the public sewerage system.
7. All soft landscaping 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. All hard landscaping must be completed prior to the first occupation of the building.

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 ensure that the habitable areas of development are at least 300mm above the 1 in 100 year plus climate change allowance flood level in accordance with the advice set out in Technical Advice Note 15 (2004).
4. To ensure that the developer and occupiers of the dwelling are aware of the risk of flooding in relation to the site in accordance with Technical Advice Note 15 (2004).
5. To ensure adherence to the information submitted with the application in the interests of clarity and a satisfactory development.
6. To ensure that the proposed drainage systems for the site are fully compliant with regulations and are of robust design in accordance with policies DM6 of the Local Development Plan (2018).
7. To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment and visual amenity of the area in accordance with Policy DM13 of the Powys Local Development Plan (2018).

Informative Notes

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.

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