

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

**Application Number:** 18/0293/FUL

**Grid Ref:** E: 326853  
N: 318410

**Community Council:** Llandysilio Community

**Valid Date:** 24.07.2018

**Applicant:** Eaglescourt Developments Ltd

**Location:** The Four Crosses Inn , Four Crosses, Llanymynech, SY22 6RE,

**Proposal:** Change of use of public house (A3) to 3x dwellings and the creation of a ground and first floor extension

**Application Type:** Full Application

### Reason for Committee determination

The Local Member has exercised their right to call the application in for Committee determination.

### Consultee Responses

#### Consultee

#### Received

Community Council

31st Aug 2018

Llandysilio Community Council have considered the above application at its meeting held on Thursday 23rd August 2018.

The Community Council wish to OBJECT to the above application for the reasons outlined below;-

1. Contrary to Policy DM11 - Protection of existing Community facilities and Services. This important Development Management Policy seeks to protect Community Assets such as Village Pubs.

The Community Council was made aware that that when the property was marketed with Fleurets that the entire site was not included. We were also informed and sent details of, an offer made for the whole site with the prospective purchaser wishing to run the pub as a going concern. In order for the Pub to be viable they wanted to buy the entire site which comprises of a large Beer Garden, Car Park and Children's Play Area. Unfortunately the developers, Eaglescourt, would not sell the whole site only part of it. This information was communicated

to the planning Officer Kate Bowen on the 9th March 2017 and was acknowledged and placed on the file P2016 0005 and is very relevant to the current application.

The property has not been marketed in its entirety i.e. as a viable going concern- only offering part of the site is not acceptable.

2. Community Asset - the property occupies a prime location being at the junction of the A483 major trunk road and the B4393 which is one of the main routes from the Midlands to the Welsh coast. It is also situated only 3 miles from 5 major Caravan parks in Llansantffraid which are within walking distance along the Canal.

The presence of a Pub would also play an important part in complementing other business in our area such as the smaller caravan park at West Lake Fishery down Domgay lane in the Village which has approx. 45 caravans.

Mention has been made in the Planning Statement submitted that the village already has a Pub but the Golden Lion is run as a Hotel and is described as such on their website.

The Four Crosses Inn was once the focal heart of the village with a Domino and Dart's team and a place where the local Young Farmers would go after their weekly meetings. In the right hands and with the right investment it could again become a thriving business.

3. Boundary - concern has also been raised with regard to the boundary shown on the submissions which includes all the pavement. The actual boundary line of the Pub should be level with the front porch

The Community Council wish to speak at the Planning Committee meeting

Second response 30<sup>th</sup> Nov 2018

The Community Council wish to maintain its OBJECT to the above application and wish to make the following comments to the Marketing information submitted.

1. Throughout the report 'the field' has been identified as separate to the Pub. This is a misleading representation as 'the field' has always been an important part of the Pub as it was used as a Play Area. Googles images will show the evidence of tyres in the grass from the play equipment which was here. The distinction by the Developers may be based on the fact that this area is not within the development Boundary but it was always part of the Pub.

2. Reference is also made to the fact that there is another Pub in the village - this is certainly not the case as the Golden Lion is a Hotel and there is an important distinction between the two.

3. It is also important to note that no 'For Sale' sign appeared to notify residents and other interested parties that the Pub was being marketed through Fleurets. A banner did appear notifying of the Open Day but this Open Day was only for one day and no other notice was given i.e in the Press to try and attract other interested parties.

4. What the evidence doesn't mention is that the Pub stands in a very strategic position being the gateway for motorists from the Midlands going to the coast and also readily available to the many Caravan parks within 3 miles. With refurbishment and in the right hands this Pub could easily become a thriving business and would boost the economy of the area. The population of Four Crosses and neighbouring villages continues to grow and they will certainly frequent a refurbished Four Crosses Pub.

The Four Crosses Inn was once the focal heart of the village with a Domino and Dart's team and a place where the local Young Farmers would go after their weekly meetings. In the right hands and with the right investment it could again become a thriving business.

The Community Council wish to speak at the Planning Committee meeting if possible depending on the date and venue.

PCC-Building Control

14th Aug 2018

Building Regulations application required

Wales & West Utilities - Plant Protection

17th Aug 2018

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.

Ward Councillor

14th Aug 2018

Can we please call this application for committee determination.

It has a big local interest as the development company have advertised for sale for the past 12 months without any car parking so it is obvious that the property would not sell.

We have a local business man who has tried to negotiate a purchase of the whole site but this has been declined.

Can you please confirm that my request has been granted.

PCC-(N) Highways

18th Sep 2018

Due to the fact that the access to the proposed development is narrow and no improvements can be made, the access road serving this development will not be adopted by the Highway Authority. Consequently, a Management Company will need to be set up by the developer for the long term maintenance of the highway, footways and all on site infrastructure.

In addition, private road signage should be erected at the entry to this development in accordance with Section 31 of the Highways Act 1980. Furthermore, we would advise that all marketing for this development should include details that the road is private.

Should the Planning Authority be minded to grant consent to the proposed development, the Highway Authority request that the following conditions be applied.

Prior to the occupation of any dwelling any entrance gates shall be set back at least 10 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.

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.

Prior to 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 0.4 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.

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

PCC-Environmental Health

22nd Aug 2018

Environmental Protection has no objection to this application.

Second response 19<sup>th</sup> Nov 2018

The applicant has submitted a noise report to assess the suitability of the site for residential development given the proximity of the main road. I can add to my previous comments as follows:

The noise impact assessment concludes that the development site falls within Noise Exposure Category 1 in accordance with TAN11. The report concludes that no mitigation measures are required in order for the site to be developed for residential purposes.

I am satisfied with the conclusions of the report; therefore, I have no objection to the application.

PCC-Ecologist

10th Sep 2018

I have reviewed the proposed plans, aerial images as well as local records of protected and priority species and designated sites within 500m of the proposed development.

The data search identified 94 records of protected and priority species within 500m of the proposed development with no records found for the site itself. Species recorded within 500m of the proposed development include bat species; noctule and pipistrelle, otter and barn owl.

There are two statutory designated sites within 500m of the proposed development;

- o SAC - Montgomery Canal approximately

- o SSSI - Montgomery Canal approximately

The proposed development is located on the site of an existing dwelling and from aerial images looks likely to impact an area of amenity planting and hard paving which are habitat considered to be of low ecological value.

There are no non-statutory designated sites within 500m of the proposed development.

Having taken into account the location of the designated sites and the nature of the proposed development it is considered that there would be no likely negative impacts directly or indirectly to the sites and/or their associated features.

The proposed development is located on the site on an existing dwelling and will impact areas of hard standing and amenity planting which are habitats considered to be of relatively low ecological value.

An Ecological Assessment Report produced by Turnstone Ecology dated August 2018 has been submitted as part of the application.

#### Bats- European Protected Species

Given the extent of the proposed works a site survey and preliminary roost assessment was undertaken on 2nd of May, a number of suitable features for roosting bats were identified.

Three activity surveys were undertaken on 20th June 2018 (dusk emergence), 20th July 2018 (dawn re-entry) and 8th August 2018 (dusk emergence). Surveys confirmed that the existing dwelling supports day bat roosts for two species of bats;

- o Common Pipistrelle - emerging from a gap in the lean-to roof
- o Soprano Pipistrelle - emerging from the lean-to roof and from a gap in the mortar at the southern gable end

Following the finding of the bat roost assessment - the report identifies that the proposed development will result in the disturbance, loss of roost locations and destruction of resting places, as such a European Protected Species Development Licence will be required.

Possible mitigation measures have been proposed in section 4.4 of the Ecological Assessment Report. Recommendations and mitigation include the following;

- o Provision of replacement roosting location in the form of bat boxes to be retained post works

- o Inclusion of a minimum of three raised ridge tiles to create gaps to allow roosting opportunities between tiles and the roof lining.

It is recommended that the identified mitigation measures to minimise impacts to bats are secured through an appropriately worded planning condition.

#### Nesting Birds

House sparrows were identified to be utilising the proposed development area. Recommendations and avoidance measures have been suggested in section 4.5.2, recommendations include the erection of mixed nesting boxes and provision of specific nesting opportunities for swifts, house martin and house sparrow. It is recommended that these measures are secured through an appropriately worded planning condition.

#### Badger and Reptiles

No evidence of badgers was found on site. However reasonable avoidance measures have been recommended in that any excavations are not to be left uncovered overnight or alternatively escape routes should be incorporated within the excavations.

No reptiles were identified on site but suitable habitat is present within the development area. Reasonable avoidance measures have been recommended with regards to reptiles in that all vegetation on site is to be cut just above ground level during the reptile activity season and maintained throughout the works.

#### Wildlife Sensitive Lighting Plan

Given the rural location of the proposed building careful consideration will need to be given to any external lighting proposed to be erected on the building. If external lighting is proposed then measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area. It is therefore recommended that a Wildlife Sensitive Lighting Plan is secured through an appropriately worded condition.

#### Landscape Planting Scheme

If it is proposed to provide landscaping as part of the potential development consideration should be given to the development of a native landscape planting scheme. It is recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules. It is therefore recommended that if considered necessary a landscape planting scheme is secured through an appropriately worded condition.

Therefore should you be minded to approve the application I recommend inclusion of the following conditions:

The mitigation measures and recommendations identified in the Ecological Assessment Report produced by Turnstone Ecology dated August 2018 with regards to bats, nesting birds, reptiles and badgers shall be adhered to and implemented in full and maintained thereafter.

Reason: To comply with Powys County Council's LDP Policy DM2, in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.

Reason: To comply with Powys County Council's LDP Policies DM2, DM7 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.

Prior to the commencement of development a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition.

Reason: To comply with Powys County Council's LDP Policy DM4 in relation to ecological qualities of the landscape and meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

In addition I recommend inclusion of the following informatives:

Warning: A European protected species (EPS) Licence is required for this development.

This planning permission does not provide consent to undertake works that require an EPS licence.

It is an offence to deliberately capture, kill or disturb EPS or to recklessly damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine.



To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at <https://naturalresources.wales/conservation-biodiversity-and-wildlife/european-protected-species/?lang=en>

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

It is an offence for any person to:

- o Intentionally kill, injure or take any bats.
- o 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:

- o 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](mailto:enquiries@bats.org.uk)

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:

- o intentionally kill, injure or take any wild bird
- o intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- o intentionally take or destroy the egg of any wild bird
- o 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.

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:

- o Intentionally kill or injure these species of reptiles,
- o 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.

WG - Highways Directorate

4th Sep 2018

I refer to your consultation of 14 August 2018 regarding the above application, and advise that the Welsh Government as highway authority for the A483 trunk road directs that

planning permission is not granted at this time as the applicant has provided insufficient information to determine the application.

The applicant must provide the following information to support this application or resubmit the application with the following details;

The applicant must provide a detailed acoustic report with calculations to demonstrate how the recommended internal noise levels of BS 8233 will be met; taking into account the need to provide adequate alternative ventilation to opening windows for all required ventilation rates.

Second response 8<sup>th</sup> Jan 2019

I refer to your consultation of 14/08/2018 regarding the above planning application and advise that the Welsh Government as highway authority for the A483 trunk road directs that any permission granted by your authority shall include the following conditions:

- 1) The proposed development must be constructed in line with the findings of the acoustic report (Project No 1818319 Dated 19 Oct 2018) to mitigate noise from the A483 Trunk Road.
- 2) No drainage from the development site shall be connected to or allowed to discharge into the trunk road drainage system.
- 3) Detailed drainage scheme proposals to be submitted for approval prior to works commencing on site.
- 4) Proposed drainage system to comply with local drainage authority requirements in terms of sustainability, attenuation and storage requirements and be adopted by a proper authority for long term management aspects.

The above conditions are included to maintain the safety and free flow of trunk road traffic.

Cadw

29th Aug 2018

Thank you for your consultation. Having considered the information provided our records show there are no scheduled monuments or registered parks and gardens that would be affected by the proposed development. We therefore have no comments to make.

Natural Resources Wales (North) DPAS

17th Sep 2018

We recommend that you should only grant planning permission if the scheme can meet the following requirements and you attach the conditions listed below. These would address significant concerns that we have identified. Therefore, we would not object provided the requirements are met and you attach the conditions to the planning permission.

#### Summary of Requirements and Conditions

Requirement 1 - bats: The applicant amends the drawings to incorporate the design features for bat mitigation described in the bat report.

Condition 1- bats: All avoidance and mitigation measures described in section 4.4 Mitigation of the Ecological Assessment are secured through planning conditions and/or a Section 106 agreement.

#### Protected Species

We note that the Ecological Assessment report submitted in support of the above application (dated August 2018 by Turnstone Ecology) has identified that bats are present at the application site.

In this case, the bat report concludes that the proposal is likely to harm or disturb the bats or their breeding sites and resting places at this site and will, therefore, require a licence.

Bats and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Where bats are present and a development proposal is likely to contravene the legal protection they are afforded, the development may only proceed under licence issued by Natural Resources Wales, having satisfied the three requirements set out in the legislation. A licence may only be authorised if:

- i. the development works to be authorised are for the purpose of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.
- ii. There is no satisfactory alternative and
- iii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that your Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any bats on the

site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

Therefore, in line with the 'Dear CPO' letter issued by Welsh Government on 1st March 2018, we request that the following informative is attached to any planning permission granted by your Authority:

Warning: An European protected species (EPS) Licence is required for this development.

This planning permission does not provide consent to undertake works that require an EPS licence.

It is an offence to deliberately capture, kill or disturb EPS or to damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine.

To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at <https://naturalresources.wales/conservation-biodiversity-and-wildlife/european-protected-species/?lang=en>

Development should not be commenced until the Applicant has been granted a licence by Natural Resources Wales pursuant to Regulation 55 of the Conservation of Habitats and Species Regulations (2017) authorizing the specified activity/development to go ahead.

On the basis of the above report, we do not consider that the development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range provided all the recommendations made in the mitigation section of the bat report are implemented.

Condition 1- bats: All avoidance and mitigation measures described in section 4.4 Mitigation of the Ecological Assessment are secured through planning conditions and/or a Section 106 agreement.

We note that none of the recommended bat mitigation have been included within the proposed plans. We advise that details confirming recommendations to be implemented are submitted to your authority and clearly incorporated into the plans prior to determining the proposal. The plans must give a clear indication of all bat roosting and access locations as well as the materials used within the dedicated bat roosting areas.

Requirement 1 - bats: The applicant amends the drawings to incorporate the design features for bat mitigation described in the bat report.

Please note that any changes to plans between planning consent and the licence application may affect the outcome of a licence application.

### Scope of NRW Comments

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/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>). 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.

### Advice for the developer

#### Pollution Prevention

All works at the site must be carried out in accordance with PPG6 'Working at construction and demolition sites' which is available at:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

All waste produced should be managed in accordance with the Environmental Permitting Regulations 2016 and other applicable legislation. Information is available on our website <http://naturalresources.wales/permits-and-permissions/waste/?lang=en>

## **Representations**

Following the display of a site notice, seven public representations of objection from five different sources have been received and are summarised as follows:

- Residential Amenity
- Strain on existing community facilities
- Would prefer the pub to stay a pub or similar commercial business such as a cafe, restaurant or local produce centre.
- Affect local ecology
- Commercial viability of the premises.

I approached Eaglescourt with a view to purchasing the premises during August 2016 with a view to re-opening the pub with a restaurant. The deal put to me by Eaglescourt was for the Four Crosses Public House and outbuildings only. I was given a further option to buy the garden attached to the property to use as car parking. However, I felt that there would be a dispute over access due to dray deliveries etc. should Eaglescourt gain planning to build on the paddock and existing car park. Further, the cost of purchasing the freehold premises, garden, the outlay involved in refurbishment, and the subsequent restructuring of access far outweighed the financial gain. Furthermore, there would be a requirement for disabled access, parking and other facilities for example play areas and garden. Therefore, I contacted Eaglescourt with my concerns and recommended that the buildings, garden and carpark in situ was sold in its entirety, and that I would be interested in the purchase of such. However, since 2016 I have not had any further contact from Eaglescourt regarding the sale.

- Dereliction

The derelict property is a wasted resource that could be better utilised for the community as a whole. Further, there is both health and safety concerns from the structural decay of the property, and concerns of the effect on nearby properties (house prices).

- Marketing

The premises have not been offered for sale in its entirety at a genuine market value price.

The public house was marketed for sale from January 2017 until 15<sup>th</sup> August 2017 without a for sale sign at the property and virtually no one in Four Crosses was aware of this situation.

Whilst on the market an open day was held in September 2017 where people who visited were shocked at the poor interior condition of the property (radiators away from the walls, pipework missing, wallpaper torn down, floorboards missing).

The pub was offered for sale minus the car park. If this is so then it is understandable that no interest was shown in buying it. If the pub and car park were offered for sale as a single entity then a sale may occur.

There has been interest in the public house with four formal viewings and two offers.

- Loss of community facility

Whilst the public house is currently closed, it represents the only potential public house in Llandysilio Community because the Golden Lion cannot be regarded as a suitable alternative.

In 2014 nearly 600 signatures were put to a petition aiming to preserve the existence of the public house which demonstrates considerable desire to retain the public house. Four Crosses has developed considerably in recent years which makes it important that it should not lose this community asset.

None of the other public houses in the locality are within walking distance.

A further public representation neither objecting nor supporting has been received and is summarised below:

- Close to adjoining properties

Raises concern over how access to the properties will be gained with access to neighbouring properties not clearly shown on plans.

In addition a representation of objection from CAMRA (Campaign for Real Ale) has been received as follows:

1. SOCIAL & ECONOMIC IMPACT OF CLOSURE: There is no realistic alternative pub available within walking distance for this large village. The Golden Lion is run as a hotel with irregular opening hours which is unsuitable to accommodate the needs of local residents. It's permanent loss would create social and economic harm to the community.

2. COMMERCIAL VIABILITY OF THE PREMISES: We are aware that a local businessman has had his offers to purchase the Four Crosses Inn turned down on more than one occasion with Eaglescourt refusing to sell most of the adjoining car park area. The future viability of the business would be seriously compromised with insufficient parking facilities. During the open day in September 2017, it was observed that the interior of the building had been deliberately trashed. This, we believe may have been done to put off any potential buyers. CAMRA's opinion is that the developers have been playing a waiting game in the hope that the local population will eventually give up resulting in an application eventually being accepted. This is the 3rd application for change of use to residential with the others being refused (The decision to refuse the 2nd application was upheld after an appeal)

3. MARKETING : The developers have mentioned that there has been a concerted effort to sell the pub since the last planning application however it was almost a year before a 'For Sale' sign appeared on the building. Many village residents were not even aware that the pub was for sale during this period.

The village has grown significantly over recent years and the Four Crosses Inn is situated in a prominent position off the bypass and has potential to trade as a successful public house.

CAMRA recommends that this application is REFUSED as we do not believe that the applicant has reasonably offered the property for sale. This application should NOT be granted until it is proven that The Four Crosses Inn has been offered for sale at a realistic market price with the entire car park area included, over a reasonable period of time.

## Planning History

App Ref	Description	Decision	Date
P/2014/0760	Full: Conversion of existing public house (A3 use class) into 3.no residential units (C3 use class), together with erection of 2.no	Refused and upheld on appeal	29th Jun 2015



dwelling and 2 no car ports and all other associated works

P/2016/0005	Conversion and extension of public house (use class A3) including partial demolition to form 3 no. dwellings, erection of 2 no. detached dwellings, 2 no. car ports and all associated works (resubmission of application P/2014/0760)	Refused	1st Apr 2016
18/0294/OUT	Erection of 4 dwellings and formation of associated access and parking	Pending Consideration	

### **Principal Planning Constraints**

Unclassified highway (U4908);  
Trunk road;  
Within development boundary of Four Crosses;  
War memorial opposite site is a grade II listed structure.

### **Principal Planning Policies**

#### National Policy

Planning Policy Wales (Edition 10, 2018)

Technical Advice Note (TAN) 5: Nature Conservation and Planning (2009)  
Technical Advice Note (TAN) 6: Planning for Sustainable Rural Communities (2010)  
Technical Advice Note (TAN) 11: Noise (1997)  
Technical Advice Note (TAN) 12: Design (2016)  
Technical Advice Note (TAN) 18: Transport (2007)  
Technical Advice Note (TAN) 23: Economic Development (2014)  
Technical Advice Note (TAN) 24: The Historic Environment (2017)

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

Welsh Government Circular 008/2018 - Planning requirement in respect of the use of private sewerage in new development, incorporating septic tanks and small sewage treatment plants

#### Local Policy

Powys Local Development Plan (2018)

SP1 – Housing Growth

SP5 – Settlement Hierarchy

SP6 – Distribution of Growth across the Settlement Hierarchy

SP7 – Safeguarding of Strategic Resources and Assets

DM2 – The Natural Environment

DM7 – Dark Skies and External Lighting

DM6 – Flood Prevention Measures and Land Drainage

DM11 – Protection of Existing Community Facilities and Services

DM13 – Design and Resources

H1 – Housing Development Proposals

H3 – Housing Delivery

H4 – Housing Density

T1 – Travel, Traffic and Transport Infrastructure

Powys Residential Design Guide (2004)

Powys Supplementary Planning Guidance Biodiversity and Geodiversity (Adopted October 2018)

### **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**

#### Site Location and Description

The site incorporates the Four Crosses Inn and part of its grounds (car park etc.) which is a vacant public house which closed in April 2014. It is located to the east of the A483 trunk road and within the south western part of the settlement boundary of Four Crosses. The site has a flat topography and some screening from the A483 highway by shrub, trees and a hedge. The beer garden/land associated with the public house abuts the northern part of the site.

It is proposed to convert and extend the public house to enable the formation of three, three bedroomed residential dwellings (falling within use class A3). The dwellings would have the following scales:

Plot 1 – 3 bed 5 person with an internal gross floor area of 105m<sup>2</sup>

Plot 2 – 3 bed 4 person with an internal gross floor area of 79m<sup>2</sup>  
Plot 3 – 3 bed 5 person with an internal gross floor area of 102m<sup>2</sup>

The proposal includes the following alterations and development:

- New front central porch and two further porches proposed over doors to the front of the proposed dwellings;
- Installation of two windows on the left hand side of the front elevation;
- Render of front elevation;
- Raising of roof line by approximately 400mm;
- Removal of existing rear structures and replacement with rear two storey extensions faced in brick or render; and
- The materials would be natural slate roof, render and brickwork, upvc windows and doors, boarded facings to rear elevation and brick chimneys.

Access would be gained off the unclassified U4908 highway as existing and ten parking spaces would be provided to the rear of the proposed dwellings along with garden areas, cycle storage and bin storage area. The application site extends to approximately 880m<sup>2</sup> and only includes part of the land formally associated with the public house.

### Background

As identified in the planning history above, the conversion of the public house into three dwellings (including the construction of dwellings on land associated with the public house) has been refused previously on two occasions. The first refusal in 2015 was subject to an appeal which resulted in the refusal being upheld on the grounds that the marketing period of 18 months from October 2012 to April 2014 was not sufficient to test the current market conditions for the public house and that it had not been clearly demonstrated that the public house cannot become a viable business in the future. The 2016 application was refused for the following reasons:

1. Insufficient information has been submitted to demonstrate that genuine attempts at marketing the existing use have been unsuccessful. The proposal is therefore contrary to criterion A of Policy RP10 of the Powys Unitary Development Plan (2010).
2. Insufficient information has been submitted to demonstrate that other solutions to support the long-term economic viability of the business have been adequately explored. The proposal is therefore contrary to criterion B of Policy RP10 of the Powys Unitary Development Plan (2010).
3. Insufficient evidence has been submitted to enable an assessment of the impact upon protected species, in particular bats contrary to Policy ENV7 of the Powys Unitary Development Plan (2010), Planning Policy Wales (2016) and Technical Advice Note (TAN) 5: Nature Conservation and Planning (2009).

### Procedure

The Community Council raise concern over the boundary shown on the submissions which includes all the pavement with the Community Council asserting that the actual boundary line of the pub should be level with the front porch. The land to the front of the public house appears to have initially only been a strip with the highway passing close to the front of the public house. Since the construction of the Four Crosses Bypass, an area of land to the front of the public house has been left and the Highway Authority are of the opinion that the land is either within the ownership of Powys County Council's Highway Authority or the Trunk Road Agency. The application site area indicated by the red line does include the area of land in question and no notice has been served on any third parties to inform them of the application. However, given that the area of land in question is not proposed to be developed and that the Council's Highway Authority and the Trunk Road Agency have both been consulted on the application and have provided comments on the proposal, Officers consider that no prejudice has been caused to any third party in respect of this matter.

### Principle

#### *Loss of community facility*

The Community Council, members of the public and CAMRA have raised concern over the loss of the public house as a community facility.

Paragraph 4.3.40 of Planning Policy Wales (Edition 10) recognises that public houses are community facilities that provide an important role in the local community and their loss can have a detrimental impact, particularly in rural locations.

The applicant contends that the village is served by another public house, the Golden Lion with the establishment opening seven evenings a week and on Sunday lunchtime. It is stated that it hosts live music and events and acts as neutral venue for community groups and the change of use of the Four Crosses Inn would provide an opportunity for the Golden Lion business to develop further. The Planning Inspector previously considered that given that the Golden Lion offers something different to that of a public house, operating mainly as a hotel, bar and restaurant and only open to the public from 6.30pm Monday to Saturday and catering for lunches on Sundays. This situation does not appear to have changed as identified within the Community Council and CAMRA responses.

Taking into account the contents of Planning Policy Wales and Policy DM11 of the Powys LDP together with the responses from members of the public, the Community Council and CAMRA, it is considered that the public house is a valued facility. It is noted that public responses refer to a petition having previously been lodged and the petition was received objecting to the loss of the public house as proposed in the 2016 application. However, Officers note that no petition has been received in relation to this current application, although objections from members of the public have been received as summarised above. Therefore, whilst a petition has not been received during the processing of this application and given that the public house is currently closed, taking

into account the consultee and public responses to this application, the public house is considered to be a potential and valued asset to the local community.

Furthermore, as identified within the Community Council's response it is recognised that public houses can also provide economic benefits to rural areas through the attraction of visitors and support of other tourist attractions such as caravan parks and holiday accommodation. In addition, it is noted that the premise is located close to Offa's Dyke national long distance walking trail.

LDP Policy DM11 seeks to protect community facilities such as public houses and states that the loss of existing public houses will only be permitted where it can be demonstrated that:

- i. The premises have been for sale and/or vacant for a minimum of 6 months and attempts at actively marketing the existing use during that time have been unsuccessful.
- ii. Alternative solutions to support the long-term economic viability of the business have been demonstrated to be adequately explored.

These policy requirements will be discussed below.

### *Marketing*

Paragraph 4.2.61 of the LDP states 'Proposals promoting alternative uses of existing neighbourhood or village shops, public houses or other services will be required to demonstrate that the premises have been actively marketed for a minimum of 6 months and that genuine efforts to sell or let the property over that period have been unsuccessful. Evidence of active marketing of a property should include details of the sales literature, advertisement campaign and buyer interest over the period'.

Public responses, the Community Council and Local Member refer to inadequate marketing efforts and in particular concern has been expressed that the premises have not been offered for sale in its entirety at a genuine market value price, that a for sale sign did not appear at the premises immediately and that the physical condition of the premises has deteriorated.

By way of background, the submission includes a copy of the marketing report submitted with the previous applications, prepared by Paramount Properties which sets out the marketing that was undertaken by the previous owners, Admiral Taverns. The public house was marketed for a period of approximately 18 months from October 2012 to April 2014 which included mailshotting over 50,000 parties, advertising the property on the company web site, on a specialist businesses for sale web site and via a for sale board at the appeal site. The marketing exercise started in October 2012 at a price of £225,000, but due to the lack of interest the price was reduced in November 2013 to £195,000 and again reduced in February 2014 to £160,000. A letter from Fleurets dated 13 October 2015 also confirms that the company partially marketed the property in

October 2012 and again in April 2014. The Planning Inspector for the appeal against the refusal of the 2015 application concluded that the public house was put up for sale for over 18 months at realistic prices as a public house. However, no interest or offers were made until the current owners offered £140,000 which was accepted.

However, the Inspector for the appeal against the 2015 refusal concluded that tangible evidence had not been provided that the property had been marketed at a realistic price as a public house in the period since trading ceased and during the period since the purchase of the property by the current owners in April 2014, which meant that a period in excess of two years had elapsed since the property was last advertised for sale and the market demand for such a property tested.

Since the appeal decision and the 2016 application was refused, the applicants have carried out further marketing and the evidence accompanies the application. Fleurets were once again instructed to market the premises, albeit with notably less land accompanying the premises. The applicants state that the premises has been actively marketed for 21 months from January 2017 to September 2018. The premises was marketed with Fleurets for £140,000 between 25<sup>th</sup> January 2017 to 25<sup>th</sup> August 2017 during which time 634 requests for details or website downloads occurred and the premises had four formal viewers. A mailshot to a total of 7,504 parties was issued and it is stated that a for sale board was erected at the property. One offer was reported from Fleurets which was 40% below the asking price but this was rejected by the vendors. The applicants state that they would be prepared to accept a lower offer of approximately £120,000. It is stated that there was negligible other interest and accordingly it was agreed that Fleurets would cease to market the premises. From September 2017 to August 2018 the applicants embarked on their own marketing and focused on the local community. The applicants state that two large banner signs were erected on the premises and an open viewing day was held in September 2017 to seek any local interest. The applicants received several enquiries following the signage and open day which quickly evaporated. The applicants contend that the lack of interest is evident of the lack of interest in the use and ownership of public houses nationally due to risk, lack of funding and cost of refurbishment to a modern standard.

According to the submission, the reduced land offered for sale with the premises was restricted to the premises itself and rear car parking, which it is understood amounted to 16 parking spaces. In written correspondence with the Community Council, the applicants stated that any parties who showed a genuine interest in running the public house were advised that the car parking size could have been doubled. The applicants state that during viewings and the open day, discussions with interested parties made it clear that extra parking land was available to purchase following negotiation.

The applicants state that the only realistic opportunity for purchase that has arisen during the marketing is via a named local businessman. However, it was not possible to reach a deal because he was insistent that he would not buy the public house and car park unless he could also buy the adjacent field. The applicants (owners) decided not to

sell the field. In summary, the applicants contend that the marketing efforts have been unsuccessful.

Development Management has sought the assistance of the District Valuer in assessing the marketing evidence and a copy of the report is attached. The District Valuer concludes that the asking price of £140,000 realistically reflects the levels of trade that have been achieved previously and the accommodation on offer. Accordingly, they are of the view that the property has been suitably marketed by a recognised licenced property agent for a suitable length of time.

Whilst the public and Community Council comments are noted in respect of the splitting of the site, the condition of the building and the discrepancies over for sale signage, it is noted that the District Valuer confirms that the public house was offered for sale at a realistic asking price. Development Management is aware that a reduced car parking and land area was offered for sale, however, Officers consider that the public house was offered with adequate car parking facilities for a public house use located in a settlement. In terms of the refusal to sell the field, Officers are of the opinion that such a sale is not integral to the running of the premises as a public house. There are many examples of public houses without adjacent large outside areas. In terms of the internal condition of the building, it is inevitable that a premises that has been vacant for over 4 years will be deteriorate, however the Planning Authority has no powers to force an owner to appropriately maintain the interior of a building which is not a listed structure. Finally, in terms of the signage, Officers do not have evidence to prove or disprove when the for sale signage was erected.

Overall, whilst the concerns from the Community Council, Local Member and the public are appreciated, taking into account the recent marketing efforts employed together with the advice from the District Valuer, it is concluded that the premise has been for sale and vacant for a minimum of 6 months and attempts at actively marketing the existing use during that time have been unsuccessful in compliance with Criterion i of LDP Policy DM11.

### *Viability*

Policy DM11 requires adequate exploration of alternative solutions to support the long-term economic viability of the business. Paragraphs 4.2.59 and 4.2.60 of the LDP state:

‘4.2.59 Proposals that would result in the loss of community facilities and indoor recreation should be justified. Alternative solutions should be considered unless it can be proven that continued provision is not economically viable.

4.2.60 Given their importance, the Council recognises the need to retain existing neighbourhood and village shops and services. A flexible approach to the use of existing premises can help sustain much needed facilities and it may be appropriate for a local village pub to operate as a village shop or sub-post office. This may reduce the need for local people to travel long distances in search of essential services, and at the same time may provide additional revenue for the business. It may also be possible to

secure the long-term viability of the business through alternative business models such as community ownership’.

The applicant states that they have sought dialogue with the community over possible community ownership or alternative use. However, despite discussions with the Community Council and with local residents at an open day there was clearly little appetite locally for community ownership. Furthermore, the village is already well-served by facilities such as a post office and shop both of which are co-located with the garage/fuel station.

The applicant also states that the lack of uptake when marketing the premises is a sign of the national decline of public houses, the cost of refurbishment to a high commercial standard, the low population market base, the evidence in decline of the trading of the public house before it was closed and the proximity of another village public house.

The District Valuer has stated that factors that impact upon the viability of the public house are the relatively low local population (in comparison to a town), the limited size of the premises to create a ‘destination/gastro’ public house, the lack of letting bedrooms or function areas therefore limiting the offer to wet led solely and the change in customer drinking/dining habits since the UK economic downturn and introduction of the smoking ban. The District Valuer has also stated that the rateable value of the property for 2017 indicates a low level of turnover and suggests that the pub has been struggling to trade successfully for a number of years.

The District Valuer has also stated that the fact that there was no interest in the property from recognised pub operators supports the view that running the property as a public house is not viable. It is understandable that the pub does not appeal to a managed operation given the limitations of the property. The property is a Free house and as such generally offers the most attractive prospect to a potential purchaser, being free of ties and offering increased profit potential. As such a lower trade may be sustainable than would be required to fund the overheads of a managed or tied house but the District Valuer has advised that the levels at which the Four Crosses is operating are not sufficient to achieve a profit even though wage levels are being kept to a minimum with the owners employing little help.

This property is not a destination pub. It has no specific locational advantage to attract customers and offers a limited trade area and car parking and does not have the attraction of letting rooms which most of the competitors around can offer. It therefore needs to draw on local trade and for a public house such as this to compete then an operator has to carve a niche in the market to offer something over and above the competition; whether it be hosting local sports teams, live music, beer festivals, quiz nights, offers and promotions. The Community Council has referred to Darts and Domino’s teams and the Young Farmers’ Club previously using the public house, and as such some element of hosting of local groups appears to have happened in the past.



In terms of the other village public house, the status of the Golden Lion has been discussed above and it is concluded that this establishment offers something different to that which the Four Crosses offered which was a traditional wet led public house. There are other public houses in villages in the locality. However, they are located some distance away and are therefore likely to require travel by car or alternative means of transport. The contribution that these facilities make to the Four Crosses community is therefore less significant than the Four Crosses Inn.

The District Valuer has advised that it is possible that a different operator may be able to push the trade back in an upward direction with longer opening hours and promotional events, however with the characteristics of the property restricting potential as a destination house there is a ceiling to the level of trade that could be expected without substantial investment in the property. The Golden Lion appears to be servicing the demand for food and letting accommodation and so The Four Crosses is left to draw upon the limited local community trade.

Whilst detailed trading accounts have not been provided in respect of the turnover of the Four Crosses Inn, the District Valuer's records indicate that the levels of trade have always been low, with a Rateable Value of £5,550 in 2000 suggesting that the pub has been a marginally profitable venture for many years.

Therefore, the District Valuer has concluded that taking into account all of the factors, they do not disagree with the view that The Four Crosses is not viable as a Public House.

Whilst the applicant has not re-opened the public house since purchasing the premises in 2014 and tested its viability in the current market, on the basis of the advice from the District Valuer, Officers conclude that it would not be appropriate to require the reopening of a public house where its viability is questioned. Indeed, even if refusal was recommended, the Planning Authority has no powers to force the re-opening of the establishment.

#### *Conversion into residential dwellings*

Four Crosses is identified as large village in the LDP and therefore, the provision of housing within the development boundary is supported by Policies SP1, SP6, H1 and H3 of the LDP subject to consideration of scale and the mix of housing being suitable. The application site is not an allocated housing site, but given its location in the development boundary and given the size and facilities offered in the settlement, it is considered that the settlement has the capacity to accommodate three dwellings. Therefore, it is considered that the principle of providing residential dwellings at the site complies with LDP Policies SP1, SP5, SP6 and H1.

The other material considerations will be discussed below.

#### Design and impact on surrounding area

The appearance of a development, its scale and its impact on its surroundings are key considerations when dealing with any planning application and Policy DM13 sets out the main material considerations for assessing the acceptability of a scheme in regard to these matters. In addition, further guidance is provided by the Powys Residential Design Guide. Policy advises 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.

Development in the locality is generally a mix of low density, low rise traditionally built detached, semi-detached and terraced housing of brick and stone construction with some commercial property interspersed. The Four Crosses Inn is a detached brick and tile property. Given that it is proposed to retain some of the character of the public house, in particular the façade of the building and that the proposed design is acceptable, it is concluded that the proposal would complement the character of the surrounding area in accordance with LDP Policy DM13.

Garden areas are proposed to the rear of the dwellings which are ample in size, although the species mix of the proposed planting has not been detailed. Therefore, it is recommended that a condition should be attached to require landscape details to be submitted, approved and implemented.

### Highways

LDP Policies DM13 and T1 indicate that development proposals should meet all highway access requirements, vehicular parking standards and demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development.

Public responses have raised concern over how access to the properties will be gained with access to neighbouring properties not clearly shown on plans. Vehicular access to the site would be gained via the existing means of vehicular access off the U4908 unclassified highway with no alterations to the existing access proposed. Therefore, it is assumed that access to neighbouring properties would be maintained, however this appears to be a civil matter between the affected parties.

The Council's Highway Authority has advised that the Highway Authority will not adopt the access as the access road is narrow and no improvements can be made. Therefore a Management Company will need to be set up by the developer for the long term maintenance of the highway, footways and all on site infrastructure. Otherwise, the Council's Highway Authority and Welsh Government Transport Section have not objected to the proposed subject to the use of conditions relating to the set back of entrance gates,

parking provision, prevention of surface water drainage discharging onto public highways and agreement of drainage proposals.

Taking into account the advice from the Council's Highway Authority and the Transport Section of the Welsh Government, subject to the use of conditions, it is concluded that the proposal would meet all highway access and parking requirements in accordance with LDP Policies DM13 and T1.

### Impact on heritage assets

#### *Setting of listed building*

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Planning Authority to have special regard to the desirability of preserving listed buildings or their settings. This requirement is reinforced through Planning Policy Wales, TAN24 and LDP Policy SP7.

The War Memorial located to the south of the application site (across the class two highway) is a grade II listed structure. The list description states that the memorial is a simple granite Celtic-style cross on tapered plinth and squared base. It has a dressed face to the plinth with commemoration of the Great War. Whilst the proposal would lead to a visual change in the locality, the memorial is located on the outskirts of the village and adjacent to the trunk road. Given the location across the highway and that the memorial already sits at the edge of the village, it is considered that the proposal would not have an unacceptable adverse impact upon the setting of the identified listed structure in accordance with the relevant legislation and national and local planning policy and guidance.

### Impact on residential amenity

In considering the amenities enjoyed by the occupiers of neighbouring properties consideration has been given to the Powys Residential Design Guide (October 2004) and LDP Policy DM13.

The Four Crosses bypass (A483 trunk road) and the roundabout providing access to the village off the bypass is located approximately 40 metres at the closest point from the rear of the proposed dwellings. Given this proximity, there is potential for noise from vehicular movements travelling along the bypass and using the roundabout. An Environmental Noise Survey accompanies the application which assesses the impact of noise from the traffic and concludes that the site is suitable for residential development. It is recommended that the living rooms and bedrooms of the proposed dwellings would have thermal double glazing (22mm thickness) with trickle vents for ventilation where windows are required to be closed, if desired by future occupiers. The Transport Section of the Welsh Government have requested that conditions are attached to require the development to include the double glazing.

There are neighbouring residential properties to the south, east and north of the application, the closest of which is approximately 20 metres from the existing public house building. Given the distance and the proposed design and the orientation of existing dwellings and the distances and their location across highways etc, it is concluded that the proposal would not unacceptably affect privacy or any other aspect of amenity of either the proposed occupiers of the converted public house or neighbouring dwellings in the locality.

Taking into account the above and the contents of the acoustic report, together with the comments from the Welsh Government and Council's Environmental Health department, it is concluded that the amenities enjoyed by the occupants of nearby or proposed properties would not be unacceptably affected in accordance with LDP Policy DM13, subject to the use of a condition requiring the installation of double glazing as set out in the Environmental Noise Survey.

### Ecology

Public responses have referred to the effect of the proposal on local ecology.

Policy DM2 of the Powys Local Development Plan seeks to maintain biodiversity and safeguard protected important sites. Policy DM2 states that proposed development should not unacceptably adversely affect any designated site, including locally important site designations, or the habitat of any protected species.

In respect of protected species, namely bats, an Ecological Assessment supports the submission and has identified that bats are present at the site. The Assessment concludes that the proposal is likely to harm or disturb the bats or their breeding sites and resting places at this site and will, therefore, an European Protected Species Development Licence will be required from Natural Resources Wales (NRW). On the basis of the Assessment, NRW have advised that they do not consider that the development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range provided all the recommendations made in the mitigation section of the bat report are implemented. NRW have requested that amended plans are submitted to incorporate the mitigation. Given that the only physical mitigation on the building would be the provision of bat boxes and tubes and a minimum of three ridge tiles to be slightly raised to create a gap under them to allow bats to roost between tiles and the roof lining, Officers consider that a condition to require the implementation of the mitigation is sufficient to ensure that the proposed mitigation is implemented and could be enforced if necessary and as such amended plans are not required.

The Council's Ecologist has further advised that careful consideration will need to be given to any external lighting to minimise impacts to nocturnal wildlife commuting and foraging in the local area. In addition, the landscape planting is recommended to be of native species. It is therefore recommended that a Wildlife Sensitive Lighting Plan and proposed landscaping measures are secured through appropriately worded conditions.

Overall, taking into account the advice from the Council's Ecologist and NRW, subject to the use of conditions and informatives relating to a bat licence, bat mitigation, external lighting nesting birds, badger and reptiles and landscaping it is concluded that the proposed development would not unacceptably adversely affect any natural environment assets in accordance with Planning Policy Wales, TAN5 and LDP Policies DM2 and DM7.

### Foul drainage

It is proposed to dispose foul drainage to the mains sewerage system which is the preferred method of foul drainage and as such it is concluded that the proposal would be served by an adequate means of foul drainage in accordance with LDP Policy DM13.

### **RECOMMENDATION**

Whilst it is regrettable that the proposal would result in the loss of a community facility, given that adequate marketing has taken place and that the viability of the public house is questionable (as advised by the District Valuer), it is concluded that the proposal complies with LDP Policy DM11. Furthermore, the provision of housing within the settlement boundary is acceptable under the housing policies of the LDP.

It is concluded that compliance with the relevant LDP Policies has been demonstrated and subject to the use of conditions and informatives, the recommendation is one of conditional consent.

### **Conditions**

1. The development shall begin not later than five years from the date of this decision.
2. The development shall be carried out in accordance with the following approved plans and documents: S130.3A.1.100, S130.3A.1.102, S130.3A.1.101, Four Crosses Turnstone Ecology Ecological Assessment dated August 2018, Sharps Redmore Report (Acoustic) dated 19<sup>th</sup> October 2018.
3. Prior to works commencing on site, a detailed drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full. The drainage system shall comply with local drainage authority requirements in terms of sustainability, attenuation and storage requirements and be adopted by a proper authority for long term management aspects.
4. Prior to the occupation of any dwelling any entrance gates shall be set back at least 10 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.

5. 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.
6. Within 14 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 0.4 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.
7. No surface water drainage from the site shall be allowed to discharge onto the county highway.
8. Prior to occupation of the dwellings hereby permitted a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition.
9. 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.
10. No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.
11. The proposed development must be constructed in line with the findings of the acoustic report (Project No 1818319 Dated 19 Oct 2018) to mitigate noise from the A483 Trunk Road.

12. No drainage from the development site shall be connected to or allowed to discharge into the trunk road drainage system.
13. The mitigation measures and recommendations identified in the Ecological Assessment Report produced by Turnstone Ecology dated August 2018 with regards to bats, nesting birds, reptiles and badgers shall be adhered to and implemented in full 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 maintain the safety and free flow of trunk road traffic in accordance with Policies DM13 and T1 of the Powys Local Development Plan (2018), Technical Advice Note 18: Transport (2007) and Planning Policy Wales (Edition 10, 2018).
- 4-7. In the interests of highway safety in accordance with Policies DM13 and T1 of the Powys Local Development Plan (2018), Technical Advice Note 18: Transport (2007) and Planning Policy Wales (Edition 10, 2018).
- 8-9. To ensure that the development satisfactorily integrates within the surrounding area in accordance with Policy DM13 of the Powys Local Development Plan (2018) and to meet the requirements of Powys County Council's Local Development Plan Policy DM4 in relation to ecological qualities of the landscape and meet the requirements of Planning Policy Wales (Edition 10, 2018), Technical Advice Note 5: Nature Conservation and Planning (2009) and Part 1 Section 6 of the Environment (Wales) Act 2016.
10. To comply with Powys County Council's Local Development Plan Policies DM2, DM7 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 (2009) and Part 1 Section 6 of the Environment (Wales) Act.
- 11-12. To maintain the safety and free flow of trunk road traffic in accordance with Policies DM13 and T1 of the Powys Local Development Plan (2018), Technical Advice Note 18: Transport (2007) and Planning Policy Wales (Edition 10, 2018).
13. To comply with Powys County Council's Local Development Plan Policy DM2, in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, 2018), Technical Advice Note 5: Nature Conservation and Planning (2009) and Part 1 Section 6 of the Environment (Wales) Act 2016.

#### Informatives

Please note the advice from Natural Resources Wales:

Warning: An European protected species (EPS) Licence is required for this development.

This planning permission does not provide consent to undertake works that require an EPS licence.

It is an offence to deliberately capture, kill or disturb EPS or to recklessly damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine.

To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at

<https://naturalresources.wales/conservation-biodiversity-and-wildlife/european-protected-species/?lang=en>

#### Pollution Prevention

All works at the site must be carried out in accordance with PPG6 'Working at construction and demolition sites' which is available at:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

All waste produced should be managed in accordance with the Environmental Permitting Regulations 2016 and other applicable legislation. Information is available on our website <http://naturalresources.wales/permits-and-permissions/waste/?lang=en>

Please note the advice from The Council's Ecologist:

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

It is an offence for any person to:

- o Intentionally kill, injure or take any bats.
- o 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:

- o 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](mailto:enquiries@bats.org.uk)

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:

- o intentionally kill, injure or take any wild bird
- o intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- o intentionally take or destroy the egg of any wild bird
- o 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.

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:

- o Intentionally kill or injure these species of reptiles,
- o 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.

Please note the advice from Wales & 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.

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