

Planning, Taxi Licensing and Rights of Way Committee Report

Application Number: 19/0458/HDG

Grid Ref: E: 289124
N: 301996

Community Council: Llanbrynmair Community

Valid Date: 11.03.2019

Applicant: Powys County Council

Location: Llan, Llanbrynmair, Powys, SY19 7DL,

Proposal: Application for hedgerow removal notice

Application Type: Hedgerow Removal Notice

The reason for Committee determination

Powys County Council is the applicant.

Consultee Responses

Llanbrynmair Community Council

No comments received at the time of writing this report

Montgomeryshire Wildlife Trust

Application Refs: 19/0456/HDG, 19/0457/HDG, 19/0458/HDG – Removal of hedgerows at Llan, Llanbrynmair, Powys, SY19 7DL

Thank you for consulting the Montgomeryshire Wildlife Trust on the above hedgerow removal notices.

With regard to these applications, the Trust has no specific data relating to the area of application; however we would like to make the following points.

The hedgerow covered by notice 19/0457/HDG is likely to be of the most value to wildlife as it appears to be much less intensively managed than the adjacent hedgerows. Where possible, we recommend leaving this more mature hedgerow in tact.

Removal of hedgerows between the months of March and August would risk harm to nesting birds and the destruction of their nests. This would be an infringement of the 1981 Wildlife and Countryside Act. If application 19/0456/HDG, 19/0457/HDG & 19/0458/HDG are to be given consent, the removal should be carried out between September and

February.

We recommend that habitat and species records be obtained from the Biological Information Service (BIS) for Powys: <https://www.bis.org.uk/>

Please feel free to contact me if you have any further queries.

PCC - Ecology

Thank you for consulting me with regards to Hedgerow Removal Application reference 19/0458/HDG.

I visited the hedgerow on the 25th March 2019 and undertook a survey in accordance with the methodology set out in the Hedgerow Regulations 1997 to assess the ecological 'Importance' of the Hedgerow as defined by the Regulations.

The results of the survey are attached to this email

Having taken these results into account, the hedgerow with which this application is concerned does not meet the criteria of 'Ecologically Important' as defined by the regulations.

Please note I have not considered the 'Historical Importance' of the hedgerow and recommend that you consult with the relevant consultee to determine the Historical Importance as defined by the Regulations.

If a hedgerow removal notice is issued the applicant should be reminded that under the Wildlife and Countryside Act 1981 (as amended) - All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.
- The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales.

I can confirm that there are no archaeological implications for the proposed development at this location in terms of the criteria in the Hedgerow Regulations 1997.

Natural Resources Wales

Thank you for consulting Natural Resources Wales on the above application.

We have reviewed the planning application submitted to us, and from the information provided we do not consider that the proposed development affects a matter listed on our Consultation Topics, *Development Planning Advisory Service: Consultation Topics* (September 2018): <https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/our-role-in-planning-and-development/our-role-in-planning-and-development/?lang=en>. We therefore do not have any comment to make on the proposed development.

Please note that our decision not to comment does 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.

We trust that the above comments are of assistance however, should you have any queries, please do not hesitate to contact me.

Planning History

App Ref	Description	Decision
19/0456/HDG	Application for hedgerow removal notice	Pending
19/0457/HDG	Application for hedgerow removal notice	Pending

Principal Planning Constraints

None

Principal Planning Policies

Policy	Policy Description	Year	Local Plan
PPW	Planning Policy Wales (Edition 10, December 2018)	2018	National Policy
TAN5	Nature Conservation and Planning	2009	National Policy
TAN18	Transport	2007	National Policy
	Hedgerow Regulations Act	1997	National Policy
SP7	Safeguarding of Strategic Resources and Assets		Local Development Plan 2011-2026
DM1	Planning Obligations		Local Development Plan 2011-2026
DM2	The Natural Environment		Local Development Plan 2011-2026
DM4	Landscape		Local Development Plan 2011-2026
DM13	Design and Resources		Local Development Plan 2011-2026
T1	Travel, Traffic and Transport Infrastructure		Local Development Plan 2011-2026

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.

Site Location and Description

The proposed application site is located within the open countryside as defined by Powys Local Development Plan (2018). The application site is located within the Community Council area of Llanbrynmair. The section of hedgerow to be removed is located adjacent to the county highway B4518 and is surrounded by agricultural land and woodland.

The notification is for the removal of 60 metres of hedgerow in order to facilitate moving the county highway B4518 south east away from an active landslip.

Principle of Development

In considering the proposed hedgerow removal, regard is given to The Hedgerow Regulations Act 1997. In compliance with regulation 5, prior to the removal of any hedgerow, the owner must firstly notify the Local Planning Authority of their intention to remove the hedgerow. In the event that the hedgerow is considered 'important' as per the criteria of Regulation 4, the Local Planning Authority will serve a retention notice prohibiting the removal of the hedgerow.

In determining whether a hedgerow is considered 'important' for the purposes of the regulations, regard must be given to the following;

- * Archaeology and History
- * Wildlife and Landscape.

With regards to the above, the following observations and comments are made.

In terms of historical and archaeological importance, Clwyd Powys Archaeological Trust were consulted. The response received indicates that there are no archaeological implications for the proposed development at this location under the criteria of the Hedgerow Regulations 1997.

With respect to wildlife and landscape, NRW and PCC Ecologist have been consulted. PCC Ecologist stated that they have visited the site and carried out an assessment of

the hedgerows affected in accordance with the requirements set out in the Hedgerow Regulations 1997. The Ecologist noted having taken these results into account, the hedgerow with which this application is concerned does not meet the criteria of 'Ecologically Important' as defined by the regulations. An informative note will be attached to any consent granted regarding nesting birds. Natural Resources Wales raised no objection to the removal of the hedgerow.

In light of the above the hedgerow is not considered 'important' and therefore the removal of the hedgerow is considered acceptable in order to facilitate moving the county highway B4518 south east away from an active landslip.

RECOMMENDATION – Approval

Having carefully considered the proposed hedgerow removal, it is considered that the hedgerow does not qualify as an important hedgerow under the hedgerow regulations.

In light of the above, the council will not be serving a hedgerow retention notice.

Informative Notes

Biodiversity

If a hedgerow removal notice is issued the applicant should be reminded that under the 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:

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- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.
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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). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales.

Montgomeryshire Wildlife Trust

Removal of a hedgerow between the months of March and August would risk harm to nesting birds and the destruction of their nests. This would be an infringement of the

1981 Wildlife and Countryside Act. If application 19/0386/HDG is to be given consent, the removal should be carried out between September and February.

We recommend that habitat and species records be obtained from the Biological Information Service (BIS) for Powys: <https://www.bis.org.uk/>

Please feel free to contact me if you have any further queries.

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