

Planning, Taxi Licensing and Rights of Way Committee Report

Application Number: 19/2055/FUL

Grid Ref: E: 289141
N: 245083

Community Council: Llangammarch Community

Valid Date: 18.12.2019

Applicant: Col (ret'd) T Van Rees

Location: Pantoityn , Tirabad, Llangammarch Wells, LD4 4DP,

Proposal: Conversion of barns to two dwellings, removal of nearby agricultural sheds, installation of sewage treatment plant and associated works

Application Type: Full Application

REPORT UPDATE

This report forms an update to the previous report having received additional legal advice regarding the potential enforcement of condition 5.

Officer Appraisal

Condition 5 requires adherence to the proposed mitigation measures and recommendations identified in the submitted Bat Assessment but the Assessment includes no time limit for the completion of these measures and it has been omitted from the condition.

It is recommended therefore, that condition 5 be appropriately amended in order to address this.

RECOMMENDATION

The recommendation is one of conditional consent subject to the conditions as set out in this update report.

Conditions

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans approved on the date of this consent (drawing nos.: 19/4430/1, 19/4430/3, 19/4430/5 and 19/4430/6).
3. Prior to the occupation of any of the dwellings hereby approved the access shall

be constructed in accordance with the detail shown on the approved Drawing 19/4430/6 so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 59 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

4. Upon formation of the visibility splays as detailed above in condition 3 the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.
5. Prior to the first beneficial use of the proposed dwellings, the mitigation measures and recommendations identified in the Bat Assessment 1593/01 b produced by Ecology Planning dated February 2020 shall be carried out. The identified measures shall be adhered to and implemented in full and maintained thereafter.
6. 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 in accordance with the recommendations outlined in the BCT and ILP Guidance Note 8 Bats and Artificial Lighting (12th September 2018). The development shall be carried out in accordance with the approved details.
7. 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. The development shall be carried out in accordance with the approved details.
8. Prior to the commencement of development, a detailed Biodiversity Enhancement Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.
9. In the event that the presence of contamination is encountered when carrying out the approved development immediate contact must be made with the local planning authority and works must cease in that area. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the local planning authority.

Following completion of the remedial works identified in the approved remediation scheme, a verification report that demonstrates compliance with the

agreed remediation objectives and criteria shall be produced, and is subject to the written approval of the local planning authority, prior to commencement of use of the development.

10. Notwithstanding the provisions of the Town and Country Planning General Permitted development Order 2013, (or any Order revoking and re-enacting that Order) nothing in Article 3 of, or Schedule 2 to that Order, shall operate as to permit within the red outline on the site location plan, reference 19/4430/1, any development referred to in Part 1 of the Second Schedule to the Order and no such development shall be carried out at any time within that area without the express grant of permission by the local planning authority.

Informative notes for Developer/Applicant

Ecology and Biodiversity

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/permits-and-permissions/protected-species-licensing/european-protected-species-licensing/?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:

- Intentionally kill, injure or take any bats.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.

Under the Habitats Regulations it is an offence to:

- Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 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.

Birds - Wildlife and Countryside Act 1981 (as amended)

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

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

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

Protected Species

Work should halt immediately and Natural Resources Wales (NRW) contacted for advice in the event that protected species are discovered during the course of the development. To proceed without seeking the advice of NRW may result in an offence under the Conservation of Habitats and Species Regulations 2017 and/or the Wildlife & Countryside Act 1981 (as amended) being committed. NRW can be contacted at: Tel: 0300 065 3000.

Environmental Protection

Any new system must comply with document H2 of the Building Regulations relating to design and installation of the foul drainage system.

In addition, Welsh Government has advised that, all septic tanks and small sewage treatment plant discharges in Wales will need to be registered with Natural Resources Wales. More information, including a step by step guide to registering can be found at the following link <http://www.naturalresources.wales/media/2879/septic-tank-registration-guidance.pdf?lang=en> .

Public Rights of Way

The applicant is advised that public footpath 15 runs through the development and the

Service therefore provides the following advice regarding the footpath should the development receive planning permission.

- **Development** over, or illegal interference with, a public right of way, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way. This includes temporary obstructions such as rubble mounds, building materials, parked vehicles etc.
- **Landscaping & Surfacing** - Advice will need to be sought before interfering or surfacing a public right of way.
- **New fencing or boundaries** – The developer will need to seek a licence for a new structure if intending to create a boundary across a public footpath or bridleway. We cannot authorise a structure across a Restricted Byway or Byway Open to All Traffic.
- **Temporary closures** – The developer can seek a temporary closure of a public right of way from the council if they feel the public may be at risk during development.
- **Legal Diversion** – If development directly affects a public right of way, the developer will need to seek advice and apply for a legal diversion from the Council. No development can take place on a public right of way until a legal order is confirmed and the process may take at least 6 months. For more information please discuss with Countryside Services at the earliest available opportunity.

Contaminated Land

The Council's guidance leaflet on the development of sites with potential land contamination is attached. Further advice on compliance with this condition may be obtained by contacting the Environmental Health Service on 0870 1923757.