

Planning, Taxi Licensing and Rights of Way Committee Report

Application Number: 20/2087/FUL

Grid Ref: E: 304151
N: 293359

Community Council: Caersws Community

Valid Date: 17.12.2020

Applicant: Miss A Barrett

Location: Land at Ael Y Bryn, Aberhafesp, Newtown, Powys.

Proposal: Construction of an all-new crematorium, including the erection of a crematorium building, change of use of land to provide a green burial site, creation of landscaped grounds to include a garden of remembrance, improved and new access arrangements, car parking area, sewage treatment plant and drainage and all associated works

Application Type: Full Application

REPORT UPDATE

This document forms an update to the report previously circulated to Members to address the following additional information received.

Additional public representations received:

1. am unavailable to attend the above meeting so please would you reflect the following statement in your summary of public comments.

Given its significant departure from the Local Development Plan, I would have expected the Powys Crematorium proposal to be handled through the LDP review process. This would have enabled wider consultations of the kind outlined in my support for a Welsh Ministerial Call-in and established whether there is a real need for such a facility and, if so, possible siting options. As it is, the proposal is premature in planning terms. The application effectively "plonks" a crematorium design concept into a rural, historic landscape and natural environment context which cannot sustainably accommodate it.

In an previous letter to the Welsh Planning Minister, I also expressed concern about the local access difficulties, road safety and traffic implications of the proposed crematorium citing Powys County Council's refusal of planning permission for a Neolithic-style tomb near Llanidloes for similar reasons. A planning inspector recently upheld the Council's decision on appeal: [Welsh Government rejects Llanidloes neolithic tombs plan | County Times](#)

2. Concerns over the presence of curlew spotted on/near the application site.

Officer Appraisal

Electric Car Charging Points

Future Wales (2040) states that where car parking is provided for new non-residential development, planning authorities should seek a minimum of 10% of car parking spaces to have electric vehicle charging points.

The applicant has confirmed that are intending to install electric car charging points at the application site and agree to a condition to secure the provision of 10 car parking spaces to have electric vehicle charging points which would be just over the 10% requirement recommended by Future Wales.

Subject to a condition it is therefore considered that the proposed development fundamentally complies with relevant planning policy.

Curlew

Concerns have been raised locally that Curlew has been identified within or near the application site.

The four fields comprising the site of the proposed development consist of improved grassland which is subject to silage/haylage cutting. Improved grassland is generally unsuitable for supporting breeding curlew as the birds require areas of longer, tussocky grass to conceal their nests and young, as well as a good source of invertebrate (insects, worms, etc.) to feed on. Breeding ground is often close to areas of damp grassland used for feeding.

There was a very small area of longer improved grassland identified in one of the report photos, which was surrounded by hedgerow, trees and fence posts; such areas are usually avoided because they provide cover/perches for predators. The ecological report identified that only the hedgerows and trees were considered suitable for nesting birds.

There is a record of a curlew in display flight to the northeast and another two records relating to garden observations near Caersws (approx. 2km away). Given the River Severn floodplain and pools in the vicinity it is likely that some suitable breeding habitat exists in the wider area. No impact to curlew is however expected as a result of the proposal.

With regard to biodiversity enhancement for the proposal, the landscaping plan identifies planting of damp grassland and meadow areas with creation of pools and swales (to support SuDS) as well as the meadow area of the green burial ground itself. All of these are biodiversity enhancements and if a landscape plan is to be submitted as recommended, it would be expected to include management information; it may be more appropriate to refer to it as a landscape and biodiversity enhancement plan in any

attached condition. The meadow and damp grassland habitat created could also benefit curlew and may attract breeding birds if there are areas of the site not subject to human disturbance during the breeding season.

Subject to conditions ensuring that development is completed in accordance with the enhancements and recommendations it is considered that the proposed development can be managed to an acceptable level and would not impact on any existing curlew habitat.

Public Representations

Several concerns have been raised through public representations in objection to the planning application. Whilst several representations made have been addressed throughout the previous officer's report there are a couple of outstanding points which can be addressed as follows:

- Hedgerow Netting

The netting of hedgerows does not constitute development and does not require planning permission; it is therefore not a matter in which the Local Planning Authority can enforce against.

Legal advice has also been sought internally and we have been advised that such netting is not a criminal offence in itself and the onus is on the developer to ensure compliance with the Wildlife and Countryside Act 1981 e.g. to ensure that no bird or other wildlife is killed or injured and that no active nests are interfered with. If there are concerns that wildlife are being killed or injured as a result, then the Police or Natural Resources Wales should be contacted immediately to investigate further.

- Pre-application Consultation Process (PAC)

Concerns have been raised by Members of the Public that the PAC process has not been appropriately followed.

It is confirmed that the PAC process has been completed to an acceptable standard which allows the validation of the planning application. Whilst concerns have been raised that not all comments have been considered or reflected in the scheme as submitted, it is considered that this is not a validation requirement of the PAC process and therefore the LPA can offer no further comments on the matter.

RECOMMENDATION

As per previous Officer report, it is acknowledged from the evidence provided through qualitative and quantitative research that there is a recognised need for a crematorium in Powys. The site the subject of the application is located within open countryside but is not classified as being high quality agricultural land.

Whilst the acceptability of development at this location is considered to be acceptable with regards to highway access, landscape and ecological considerations, I do advise Members that the accessibility of the site via other means of travel should be appropriately considered and balanced when coming to a recommendation.

It has been acknowledged that there is currently no bus route provided to the application site or footpath provision. However, it is considered in this instance and on balance that the recognised need and reduced transport movements for residents would outweigh these concerns.

The recommendation would therefore be one of conditional consent.

Should Members resolve to approve the application then no decision shall hereby be issued until confirmation has been received by the Welsh Ministers in line with the received correspondence.

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 Plan 001 Rev E, Plan 002, Plan 003, 1920100 (proposed ground Floor Plan, lower floor plan, elevations, site plan, building sections, proposed south elevations, proposed roof plan, proposed block plan), Arboricultural Report, Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan dated 9th April 2021 by Wye Valley Tree Services, BS5837 Tree Survey dated 9th April 2021 by Wye Valley Tree Services, POWYS CREMATORIUM SOAKAWAY DESIGN and included plan (undated), Air Quality Assessment by DustScan AQ dated March 2021, Tier 3 Groundwater Risk Assessment; Land at Ael Y Bryn, Aberhafesp, Newtown, Powys, SY16 3HR – New Burial Ground Report ref.: 3290_GRA 01 Date: 04 March 2021, Noise Impact Assessment dated 22nd Dec 2020, Air Quality Assessment date January 2021 by DustScan AQ, Preliminary Ecological Appraisal Survey by Arbtech, Historic Impact Assessment and Desk Based Assessment by Archaeology Wales, Powys Crematorium LVIA Landscape and Visual Impact Assessment December 2020.
- 3 Prior to any other works commencing on the development site, detailed engineering drawings for the visibility improvements to the junction of the B4568/B4569/C2065 and associated works, shall be submitted to and approved in writing by the Local Planning Authority. Works thereafter shall be completed in full accordance with the details as approved.
- 4 Prior to any works commencing on the development site, all Highway Improvements, referred to above, shall be fully completed to the written satisfaction of

the Local Planning Authority and shall be retained for their designated use for as long as the development hereby permitted remains in existence.

5 No development shall commence until provision is made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. The 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.

6 No other development shall commence until the main access off the B4568 has been constructed 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 215 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.

7 Prior to the first beneficial use of the development the service access off the C2065 shall be constructed 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 43 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.

8 All vehicular movements associated with the development shall enter/exit the site via the main site access off the B4568 until such time as the service access as Condition 5 above has been constructed. Therefore, no access to the site shall be gained through the service access until such time as it has been constructed in accordance with the approved drawings.

9 Upon formation of the visibility splays as detailed above 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.

10 Within 5 days from the commencement of the development the two field gates onto the B4568 shown on Drawing Number 001 Rev D shall be stopped up, in materials to be agreed in writing by the Local Planning Authority and the stopping up shall be retained for as long as the development is in existence.

11 Before any other development is commenced the area of the main access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 12 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

12 Prior to the first beneficial use of the development hereby approved, provision shall be made within the site for the parking and turning of vehicles as detailed on the approved site plan 001 Rev D. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

13 Prior to the first operational use of the development the area of the main access to be used by vehicles is to be finished in a 40mm bituminous surface course material or (a suitably bound material which is to be approved in writing by the LPA) for a distance of 12 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

14 Prior to the first operational use of the development the area of the service access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material, 60mm of bituminous macadam binder course material and be finished in a 40mm bituminous surface course material or (a suitably bound material which is to be approved in writing by the LPA) for a distance of 12 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

15 The gradient of the accesses shall be constructed so as not to exceed 1 in 30 for the first 12 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

16 Any vehicular entrance gates installed within the application site shall be set back at least 12 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.

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

18 Prior to commencement of development, including vegetation and ground clearance, a Reasonable Avoidance Measures Method Statement for badger and hedgehog shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in full.

19 The development shall be undertaken in strict accordance with the BS5837:2012 Arboricultural Report, Arboricultural Impact Assessment, Arboricultural Method Statement & Tree Protection Plan for P/2158/20/FUL - proposed new Crematorium at Ael y Bryn, Caersws. The measures identified shall be adhered to and implemented in full and maintained thereafter.

20 Prior to the commencement of development, a Hedgerow Replacement and Aftercare Scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include a scaled drawing identifying the location of hedgerow translocation or replacement planting and a written specification clearly describing the translocation method and/or species, sizes, densities and planting numbers proposed, as well as aftercare measures. The approved scheme shall be implemented in full and maintained thereafter.

21 Notwithstanding the details submitted, prior to commencement of development, a detailed landscaping and biodiversity enhancement 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 position. 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.

22 Prior to commencement of development, an External Lighting Design Scheme to avoid and reduce potential impacts on nocturnal wildlife shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be adhered to and be implemented in full.

23 All burials shall be:

- a minimum of 50 m from a potable groundwater supply source;
- a minimum of 30 m from a water course or spring;
- a minimum of 10 m distance from field drains;
- no burial into standing water and the base of the grave must be above the local water table;

24 Prior to the commencement of development a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include details on the management of impact and controls over noise, hours of operation and dust as a minimum during construction. Development thereafter shall be completed in full accordance with the details as

approved.

25 The developer shall ensure that a suitably qualified archaeological contractor is present during the undertaking of any ground works in the development area associated with the western access track so that an archaeological watching brief can be conducted. The archaeological watching brief must meet the standards laid down by the Chartered Institute for Archaeologists Standard and Guidance for archaeological watching briefs and will be completed in accordance with a written scheme of investigation, which has been approved in advance by the Local Planning Authority. A copy of the resulting report should be submitted to the Local Planning Authority and the Development Control Archaeologist, Clwyd-Powys Archaeological Trust (The Offices, Coed y Dinas, Welshpool, Powys, SY21 8RP Email: mark.walters@cpat.org.uk) After approval by the Local Planning Authority , a copy of the report and resulting archive should also be sent to the Historic Environment Record Officer, Clwyd-Powys Archaeological Trust for inclusion in the regional Historic Environment Record and a copy to the National Monuments record, RCAHMW

26 Prior to any works commencing on site the outer boundary of the exclusion area for the Roman Road shall, on both sides, be marked out with temporary barrier fencing to avoid any accidental damage by building and landscaping. The fencing shall remain as such throughout the construction period.

27 Prior to the first use of the building hereby approved 10 electric vehicle car charging points shall be provided within the car parking areas hereby approved. The electric points as detailed above shall thereafter be retained in perpetuity.

Reasons

1 Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

2 To ensure adherence to the approved plans in the interests of clarity and a satisfactory development.

3 In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.

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18 To comply with Powys County Council's LDP Policies DM2 in relation to The Natural Environment and DM4 in relation to Landscape, and to meet the requirements of Planning Policy Wales (Edition 11, February 2021), TAN 5: Nature Conservation and Planning and Part1 Section 6 of the Environment (Wales) Act 2016

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Planning and Part1 Section 6 of the Environment (Wales) Act 2016

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22 To comply with Powys County Council's LDP Policies DM2 in relation to The Natural Environment and DM7 in relation to Dark Skies and External Lighting, and to meet the requirements of Planning Policy Wales (Edition 11, February 2021), TAN 5: Nature Conservation and Planning and Part1 Section 6 of the Environment (Wales) Act 2016.

23 To ensure the proposed development does not have an unacceptable impact on groundwater risk in accordance with Planning Policy Wales (Edition 11) and DM6 of the Local Development Plan (2018).

24 In the interests of amenity and a satisfactory development in accordance with policies DM4 and DM13 of the Powys Local Development Plan (2018), Technical Advice Note 12 and Planning Policy Wales (Edition 11, 2021).

25 To secure preservation by record of any archaeological remains which may be revealed during ground excavations for the consented development in accordance with policy SP7 of the Local Development Plan (2018).

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27 In accordance with guidance contained within Future Wales 2040.

Informative Notes

1 Advisory Notes

NOTE:THE ATTENTION OF THE APPLICANT MUST BE DRAWN TO RELATED HIGHWAYS LEGISLATION WHICH MAKES PROVISION FOR THE FOLLOWING;

1. Under Section 184 of the Highways Act 1980, it is a requirement that a licence is obtained from the Highway Authority, in addition to Planning Permission, for vehicular access works.

a. The need to avoid interference with and to make provision for the carrying of existing highway drainage under the access to the satisfaction of the Highway Authority.

b. The requirement of the Highway Authority for the Developer to ensure that no surface water is discharged onto the County Highway or, without prior approval, into the highway drainage system.

2. Under Section 50 of the New Roads & Street Works Act 1991 it is a requirement that a Streetworks licence is obtained from the Highway Authority to place, or to retain, apparatus in the highway and thereafter to inspect, maintain, adjust, repair, alter or renew the apparatus, change its position or remove it.

3. Under section 171 of the Highways Act 1980 it is a requirement that a licence is obtained from the Highway Authority, in addition to Planning Permission, for the creation of passing bays or highway re-alignment works.

4. The need to inform and obtain the consent of Statutory Undertakers (Electricity, Water, Gas, BT), Land Drainage Authority, etc. to the works.

5. The New Roads & Street Works Act 1991 requires that all works, be properly notified and approved prior to commencement.

Further advice on the above highway matters can be obtained from:

<http://www.powys.gov.uk/en/roads-transport-parking/>

street.works@powys.gov.uk
Street Works
Powys County Hall
Spa Road East
Llandrindod Wells
Powys
LD1 5LG
0845 6027035

2 Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)

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

3 Mid and West Wales Fire and Rescue Authority

I acknowledge receipt of the notification to the Mid and West Wales Fire and Rescue Authority in relation to the above application.

The site plan of the above proposal has been examined and the Fire and Rescue Authority would wish the following comments to be brought to the attention of the committee/applicant. It is important that these matters are dealt with early on in any proposed development.

The developer should consider the need to provide adequate water supplies for fire fighting purposes on the site and general guidance on this matter is given in the attached Appendix.

Furthermore, the applicant should be advised to contact the Local Authority Building Control Department, which is the responsible authority, when determining issues concerning means of warning and escape, internal fire spread (linings and structure), external fire spread, access and facilities for the Fire and Rescue Service, in accordance with the 2007 version of Approved Document B. The plan has been retained for record purposes but will be returned if you so request.

4 All: Having assessed the Planning Application Ref 20/2087/FUL, the SuDS Approval Body (SAB) deem that the construction area is greater than 100m² and therefore this proposed development will require SAB approval prior to any construction works commencing onsite.

Please contact the SAB Team on 01597 826000 or via email sab@powys.gov.uk For further information on the requirements of SAB and where relevant application forms/guidance can be accessed, please visit the following website

<https://en.powys.gov.uk/article/5578/Sustainable-Drainage-Approval-Body-SAB>

If for any reason you believe your works are exempt from the requirement for SAB approval, we would be grateful if you would inform us so we can update our records accordingly.

The requirement to obtain SAB consent sits outside of the planning process but is enforceable in a similar manner to planning law. It is a requirement to obtain SAB consent in addition to planning consent. Failure to engage with compliant SuDS design at an early stage may lead to significant un-necessary redesign costs.

Case Officer: Gemma Bufton, Principal Planning Officer
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