

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

**Application Number:** 21/0694/HH  
**Grid Ref:** E: 312159  
N: 231534  
**Community Council:** Felin-Fach Community  
**Valid Date:** 20.04.2021

**Applicant:** Mr R Williams

**Location:** Tredomen Court, Trefeinon, Brecon, Powys, LD3 0RL.

**Proposal:** Change of use of agricultural land into residential curtilage

**Application Type:** Householder

### The reason for Committee determination

The applicant is an elected member for Powys County Council.

### Consultee Responses

#### Consultee

#### Received

PCC-(S) Highways

29th Apr 2021

Does not wish to comment on the application

Welsh Water

20th May 2021

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

Sewerage: The applicant is located in an unsewered area therefore we have no comments to make.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

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.

## **Representations**

Following the display of a site notice on 10.05.2021 no public representations have been received at the time of writing this report.

## **Planning History**

<b>App Ref</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
P/2008/0240	Listed Building Consent for installation of 3 solar panels and 3 roof lights	Consent	29th Oct 2008
P/2008/0250	Installation of 3 solar panels and 3 roof lights	Consent	29th Oct 2008
P/2016/0125	Erection of workshop, machinery shed and store	Consent	1st Apr 2016
P/2016/1223	Householder: Demolition of existing porch and erection of new garden room to rear	Consent	16th Feb 2017
P/2016/1225	LBC: Demolition of existing porch and erection of new	Consent	16th Feb 2017

garden room to rear including  
internal and external alterations  
and demolition of garden wall

### Principal Planning Constraints

Within 50m of Listed Building  
Within 50m of Listed Building

Outbuildings on N and E sides  
Tredomen Court and attached barns

### Principal Planning Policies

Policy	Policy Description	Year	Local Plan
PPW	Planning Policy Wales (Edition 11, February 2021)	2021	National Policy
NATPLA	Future Wales - The National Plan 2040	2021	National Development Plan 2021
TAN5	Nature Conservation and Planning	2009	National Policy
TAN6	Planning for Sustainable Rural Communities	2010	National Policy
TAN12	Design	2016	National Policy
TAN18	Transport	2007	National Policy
TAN24	Historic Environment		National Policy
DM2	The Natural Environment		Local Development Plan 2011-2026
DM4	Landscape		Local Development Plan 2011-2026
DM7	Dark Skies and External Lighting		Local Development Plan 2011-2026
DM13	Design and Resources		Local Development Plan 2011-2026

H7	Householder Development	Local Development Plan 2011-2026
T1	Travel, Traffic and Transport Infrastructure	Local Development Plan 2011-2026
SP7	Safeguarding of Strategic Resources and Assets	Local Development Plan 2011-2026
SPGBIO	Biodiversity and Geodiversity SPG (2018)	Local Development Plan 2011-2026
SPGRES	Residential Design Guide SPG (2020)	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  
 Marine and Coastal Access Act 2009

### **Officer Appraisal**

#### Site Location and Description

The proposed development is not located within a settlement development boundary and therefore for the purposes of this notification is considered as development within the open countryside as defined by the Powys Local Development Plan (2018). The application site is located within the Community Council area of Felin-Fach and accessed via the C0091 access road. Tredomen Court is a detached dwelling with attached barn that is Grade II Listed (Cadw ID 84331), the neighbouring outbuildings to the northeast are also Grade II Listed (Cadw ID 84324). To the south of the application site there is agricultural land and to the west is further agricultural buildings.

Consent is sought for the change of use of agricultural land into residential curtilage to the south of Tredomen Court extending the existing residential curtilage by 464 square metres. The proposed will include the erection of a new timber post and rail fencing with stockproof fencing and the planting of a new native species hedgerow.

#### Principle of Development

In accordance with Policy DM4 of the Local Development Plan (adopted 2018)

landscape proposals for new development within the open countryside must not, individually, or cumulatively, have an unacceptable adverse effect, on the valued characteristics and qualities of the Powys landscape. All proposals will need to:

- 1. Be appropriate and sensitive in terms of integration, siting, scale and design to the characteristics and qualities of the landscape including its: topography; development pattern and features; historical and ecological qualities; open views; and tranquillity; and*
- 2. Have regard to LANDMAP, Registered Historic Landscapes, adjacent protected landscapes (National Parks and Areas of Outstanding Natural Beauty) and the visual amenity enjoyed by users of both Powys landscapes and adjoining areas. Proposals which are likely to have a significant impact on the landscape and/or visual amenity will require a Landscape and Visual Impact Assessment to be undertaken.*

This householder application seeks the change of use of agricultural land into residential curtilage. Having assessed the proposed site under LANDMAP (discussed in greater detail later in the report), it was evident that a visual sensory evaluation of the site is moderate. As such, the proposal is not deemed to have an unacceptable impact on the Powys landscape as the land is sited in a logical and appropriate location in relation to the dwelling (Tredomen Court).

Following consideration of information supplied by Welsh Government through the Provision of Agricultural Land Classification, due regard has been given to the classification afforded to the application site. The site in question has been indicated category 2 agricultural land. Planning Policy Wales (PPW) paragraph 4.10 outlines national policy towards conserving Wales' Best and Most Versatile (BMV) agricultural land. PPW states that;

*“In the case of agricultural land, land of grades 1, 2 and 3a of the Department for Environment, Food and Rural Affairs (DEFRA) Agricultural Land Classification system (ALC) is the best and most versatile and should be conserved as a finite resource for the future. In development plan policies and development management decisions considerable weight should be given to protecting such land from development, because of its special importance.*

*Land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations. If land in grades 1, 2 or 3a does need to be developed, and there is a choice between sites of different grades, development should be directed to land of the lowest grade.”*

It is noted the immediate surrounding landscape to the application site is classified as Grade 2 agricultural land and as such, land in lower agricultural grades is unavailable in

this instance. Moreover, officers consider in this context the area is relatively small in scale covering an area of approximately 464m<sup>2</sup> and the proposed change of use from agricultural land at this location forms a logical extension to the existing residential curtilage and is in an appropriate location in relation to the existing dwelling. The use of the land as residential curtilage would also leave the option open for the land to be returned to agricultural production if ever required.

Therefore, in light of the above, and considering the rural location of the proposed site, it is considered that the proposed development fundamentally complies with relevant planning policy subject to the following material considerations:

### Highway Safety

Policy DM13 part 10 states that development proposals should meet all highway access requirements (for transport users) and parking standards which include a safe access, visibility splays and adequate parking which is also supported by policy T1 of the LDP.

The proposed development does not seek to alter the existing means of access or area of parking. Powys County Council's Highway Authority has been consulted on the proposed development and has raised no objection to the proposed development.

In light of the above, it is considered that the proposed development fundamentally complies with policies DM13 and T1 of the Powys Local Development Plan, Technical Advice Note 18 and Planning Policy Wales.

### Landscape Impact

LDP policy DM4 confirms that proposals for new development must not, individually or cumulatively, have an unacceptable adverse effect, on the valued characteristics and qualities of the Powys landscape. All proposals will need to be appropriate and sensitive in terms of integration, siting, scale and design to the characteristics and qualities of the landscape including its: topography; development pattern and features; historical and ecological qualities; open views; and tranquillity.

Having assessed the proposed site under LANDMAP, it is classified as:

*“Area with varied topography of hills and small valleys with pasture dominated farmland... This is interspersed with woodland blocks, some coniferous and some deciduous, which are often in prominent positions on hilltops and sides, the pastoral landscape does also include limited arable land enclosed by managed hedges with mature standard trees (mainly oak). Some hedges are laid although most are cut... In some areas they are neglected and others are dominated by holly... Settlement is scattered with most dwellings in traditional vernacular although some exceptions exist, which detract a little from the landscape... the small Common appears unmanaged... The quarry at Coed Mawr is a detractor.”*

The following was also noted:  
Geological landscape- Moderate  
Habitat's landscape- Moderate  
Historic landscape- Outstanding  
Visual sensory – Moderate

The proposal is not deemed to have an unacceptable impact on Powys landscape as the proposed change of use of land from agricultural to residential curtilage is sited in an appropriate location extending the existing residential curtilage. The proposal will retain the existing hedgerow and will provide additional landscaping in the form of planting native species hedgerow alongside a new timber post and rail fencing which is considered to be in keeping with the surrounding environment.

In light of the above, it is considered that the proposed development fundamentally complies with relevant planning policy.

### Natural Environment

Policy DM2 states that proposals shall demonstrate how they protect, positively manage and enhance biodiversity and geodiversity interests. Proposals which would impact on natural environment assets will only be permitted where they do not unacceptably adversely affect those assets. Technical Advice Note (TAN) 5 seeks to maintain biodiversity and safeguard important sites.

Consideration has been given as to whether the proposed development would have a potential detrimental impact upon a natural environment asset.

The application site is currently semi-improved agricultural land which is considered to be of low ecological value. The existing hedgerow will be retained as part of the development, with no loss of existing landscaping required for the change of use.

In light of this officers consider the proposed development is unlikely to have a significant impact on biodiversity within and surrounding the application site. However, an ecology informative will be attached to the granting of any consent.

In accordance with Part 1 Section 6 of the Environment (Wales) Act 2016 Local Authorities are required to maintain and enhance biodiversity through all of its functions – this includes the planning process. As part of the application biodiversity enhancement measures are proposed in the form the planting of new native species of hedgerow and the installation of 2x Schwegler 1B Nest Boxes on the neighbouring barns set at a minimum height of 3.0m from ground level.

In light of the above and subject to the inclusion of an appropriately worded conditions it is considered that the proposed development is in accordance with policy DM2 of the

Powys Local Development Plan, Technical Advice Note 5 and Planning Policy Wales.

### Built Heritage

Policy SP7 of the Powys Local Development Plan (2018) states that proposals must not have an unacceptable adverse impact on the resources or asset and its operation. Strategic resources and assets in Powys include historic environment designations such as scheduled ancient monuments and listed buildings. This policy seeks to safeguard these important assets from unacceptable development for the future well-being of the county.

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

It is noted there are two Grade II Listed Buildings neighbouring the site namely:

- Grade II listed building Tredomen Court and attached barn (Cadw ID 84331)
- Grade II listed buildings Outbuildings on N and E sides of Farm Court at Tredomen Court (Cadw ID 84324)

Tredomen Court is listed for its special architectural and historic interest as a substantial gentry house of the later C17.

The land subject to the change of use is located to the southern area to the existing dwelling, the existing garden boundary to the east is to be retained as part of the change of use. The new boundary to the western boundary will be constructed from a mixture of a native hedgerow and post and rail fence which is considered to be in keeping with the setting of the existing building.

Additionally, it is noted that under the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013, should consent be granted then any future structures within this area would first require approval from the Local Planning Authority due to them being located within curtilage of a listed building. Future development/erection of any structures within this area will therefore be carefully regulated.

In light of the above, it is considered that the proposed development would not harm the setting of the nearby listed buildings and therefore complies with policy SP7 of the Powys Local Development Plan (2018), Technical Advice Note 24 and Planning Policy Wales.

### River Wye SAC Catchment

The proposed development is located within the catchment of River Wye SAC. Under the Habitats Regulations, where a plan or project is likely to have a significant effect on

a European site, either alone or in combination with other plans or projects, and where it is not directly connected with or necessary to the management of the site (previously designated pursuant to EU retained law) the competent authority must carry out an appropriate assessment of the implication of the plan or project in view of the site's conservation objectives.

Natural Resources Wales has set new phosphate standards for the river SACs in Wales. Any proposed development within the SAC catchments that might increase the amount of phosphate within the catchment could lead to additional damaging effects to the SAC features and, therefore, such proposals must be screened through a HRA to determine whether they are likely to have a significant effect on the SAC condition.

This application has been screened in accordance with Natural Resources Wales's advice for planning applications affecting phosphorus sensitive river Special Areas of Conservation (SACs) (updated 26<sup>th</sup> May 2021). It is considered that this development will not increase phosphate inputs as it is for the change of use of agricultural land into residential curtilage only.

Gwillithen River is located approximately 430 metres south of the application site. However, due to the nature of the application it is not considered that the proposal would impact on this area.

As such, officers are satisfied that the proposed development would not have a significant impact on the River Wye SAC.

## **RECOMMENDATION**

In light of the above it is therefore considered that the proposed development fundamentally complies with relevant planning policy and the recommendation is therefore 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; KI 5683 1, KI 5683 2, KI 5683 A.
3. Biodiversity enhancement measures as identified within Plan No: KI 5683 A regarding the implementation of 2x Schwegler 1B Nest Boxes and native species hedgerow planting shall be adhered to and implemented in full within the first planting season following the first use of the land hereby approved and maintained thereafter as such 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. To comply with Powys County Council's LDP Policies DM2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 11, 2021), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

## **Informative Notes**

### **1 Ecology**

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

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 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:

- 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.

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