



Planning, Taxi Licensing and Rights of Way Committee Report

Application Number: 22/1355/FUL

Grid Ref: E: 297684
N: 267695

Community Council: Nantmel Community

Valid Date: 09.08.2022

Applicant: Mr Tony Davies

Location: Cae Henfron, Rhayader, Powys, LD6 5BL

Proposal: Provision of a solar array and associated works

Application Type: Full Application

The reason for Committee determination

The applicant is a close relative of an Elected Member.

Consultee Responses

Consultee

Received

WG - Highways Directorate

5th Sep 2022

I refer to your consultation of 19th August 2022 regarding the above application and advise that the Welsh Government as highway authority for the A470 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;

- 1) The applicant is required to confirm how the solar panels will be delivered to site.

Additional comments received 18th October 2022 –

I refer to your consultation of 13/10/2022 regarding the above planning application and advise that the Welsh Government as highway authority for the A470 trunk road is content to remove the present holding direction and no longer wishes to issue a direction

in respect of this application.

PCC-(M) Highways

30th Aug 2022

Does not wish to comment on the application

Welsh Water

9th Sep 2022

The proposed development is crossed by a trunk/distribution watermain, the approximate position being shown on the attached plan. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose our Conditions for Development near Watermain(s). It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site.

Sewerage

As of 7th January 2019, this proposed development may be subject to Schedule 3 of the Flood and Water Management Act 2010. The development therefore may require approval of Sustainable Drainage Systems (SuDS) features, in accordance with the 'Statutory standards for sustainable drainage systems - designing, constructing, operating and maintaining surface water drainage systems'. It is therefore recommended that the developer engage in consultation with Powys County Council, as the determining SuDS Approval Body (SAB), in relation to their proposals for SuDS features. Please note, Dwr Cymru Welsh Water is a statutory consultee to the SAB application process and will provide comments to any SuDS proposals by response to SAB consultation.

Notwithstanding this, we would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes listed below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

Condition

No surface water and/or land drainage shall be allowed to connect directly or indirectly

with the public sewerage network.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

WATER SUPPLY

Dwr Cymru Welsh Water has no objection to the proposed development.

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.

Natural Resources Wales

22nd Aug 2022

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.

Community Council

29th Sep 2022

The Council encourages this type of development and were in full support.

PCC-Building Control

No comments received at the time of writing this report.

Ward Councillor

No comments received at the time of writing this report.

Representations

A site notice was displayed on September 8th 2022. At the time of writing this report no third party representations have been received by Development Management.

Planning History

App Ref	Description	Decision	Date
PPAE/2016/0106	Pre-planning application enquiry in relation to residential development	Planning Permission Needed	15th Jul 2016
18/0455/AGR	Application for prior notification of agricultural development - proposed building	Planning Permission Required	Mon 03 Sep 2018
18/0884/HDG	Application for hedgerow removal	Approve	Mon 17 Dec 2018
19/0560/FUL	Erection of agricultural general purpose building, creation of new field gate access and blocking up of existing field gate access	Approve	9th Oct 2019
20/0384/FUL	Installation of a biomass boiler, flue and associated works	Approve	21st May 2020
21/0467/FUL	Tourism development of four holiday pods to include access road and associated works (part retrospective)	Pending Consideration	

Principal Planning Constraints

Mineral Safeguarding Sand_Gravel Cat 2
Special Area of Conservation approximately 100m from site
River Wye SSSI approximately 100m from site
Phosphorus Sensitive Welsh River SAC
Public rights of way network 150/218/2 within 100m of site
2 listed buildings within 500m of site

Principal Planning Policies

Policy	Policy Description	Year	Local Plan
NATPLA	Future Wales – The		The National

	National Plan 2040	Development Framework National Policy
PPW	Planning Policy Wales – Edition 11 February 2021	
TAN5	Nature Conservation and Planning	National Policy
TAN13	Design	National Policy
TAN18	Transport	National Policy
TAN24	Historic Environment	National Policy
SP7	Safeguarding of Strategic Resources and Assets	Local Development Plan 2011 - 2026
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
DM8	Minerals safeguarding	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
RE1	Renewable Energy	Local Development Plan 2011 – 2026
SPGBIO	Biodiversity and Geodiversity SPG	Local Development Plan 2011 – 2026
SPGLAN	Landscape SPG	Local Development

		Plan 2011 – 2026
SPG	Renewable Energy	Local Development Plan 2011 – 2026
SPG	Historic Environment	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 of Development

The application site is located within Nantmel Community Council area and is located within the open countryside as defined by the Powys Local Development Plan (2018). The agricultural field in which the application site is located directly adjoins the development boundary of Rhayader town to the west. The field is partially bounded to the south by the A470 Trunk Road and partially by the Unclassified Highway U1535 which connects to the A470. The field is bounded by agricultural land to the north-west and north-east and the ground rises significantly from the main road in the south to the north-east.

Consent is sought for the erection of a 0.03MW ground mounted solar array and associated works. The proposed PV array is to be formed by two separate rows of panels, each measuring approximately 24.7 metres x 2.3 metres. There will be 80 panels in total. The array will be approximately 0.6 metres high along its southern length and 1.5 meters high along its northern length and will be used to power the existing building on site which houses farm equipment, a small farm office and heating system. Surplus electricity will be exported into the National Grid.

Principle of Development

Policy RE1 of the Powys Local Development Plan 2018 (LDP) supports proposals for renewable and low carbon energy development, subject to compliance with its own specific criteria and all other policies of the LDP.

The proposed development under consideration is a PV array with an anticipated output of 30kW. The nearest Local Search Area (LSA) for solar energy is located approximately 3.0 kilometres to the north-east of the development site. Due to the distance and the fact that the proposal refers to a private development which is within the output requirements of solar PV permitted within local solar search areas it is not considered that the proposals will prejudice the purpose of the LSA.

It is noted that the array will be fixed by ground anchors which do not require the use of concrete and the agent has confirmed that upon decommissioning all above-ground infrastructure shall be removed and recycled and the land returned to beneficial use within the site. Given that policy RE1 point 4 requires proposals to make provision for the restoration and after-care of land for its beneficial re-use, Officers consider it appropriate to include a condition to ensure that detailed proposals for the restoration and after-care of the proposed development are submitted to and approved by the Local Planning Authority within six months of the decommissioning of the PV array.

Subject to the inclusion of an appropriate condition and to the following considerations therefore, it is considered that the principle of development is fundamentally acceptable.

Design, Layout and Scale

LDP Policy DM13 confirms that development proposals must demonstrate a good quality design and shall have regard to the qualities and amenity of the surrounding area, local infrastructure and resources. Proposals will therefore 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.

The proposed solar array is to be sited to the rear (north) of the existing building on site at a distance of approximately 8.5 metres. Given the natural rise in topography this is considered sufficient to ensure that the south-facing solar array will not be unacceptably overshadowed.

The array is however more than double the length of the existing building. As such and also due to the nature of the topography, consideration has been given to whether the array is likely to be visible from neighbouring land to the south including the A470 trunk road.

Officers note that in this location there are substantial landscape features (mature trees and hedgerow) between the proposed development site and the A470. As such it is considered that the development will only be partially visible for a short distance (approximately 25-30 metres) and then only to traffic and pedestrians travelling in a southerly direction. For those travelling north the site is unlikely to be visible, particularly when the trees and hedgerow are in leaf.

Based upon the above observations together with the design proposed, officers consider the proposed development to be appropriate with regard to design layout and scale and therefore do not consider that the proposed development will unacceptably affect the existing character and appearance compliant with policy DM13.

Neighbouring Amenity

Policy DM13 further confirms that the amenities enjoyed by the occupants or users of nearby or proposed properties shall not be unacceptably affected by levels of noise, dust, air pollution, litter, odour, hours of operation, overlooking or any other planning matter.

Officers note that none of the nearby residential dwellings face towards the development site and are located at some distance, the nearest being approximately 50 metres away.

It is therefore considered that there will be no loss of residential amenity as a result of development and in this respect the proposed development is in accordance with LDP policy DM13.

Highway Safety

In accordance with the requirements of policies DM13 and T1, development proposals must be designed and located to minimise the impacts on the transport network - journey times, resilience and efficient operation - whilst ensuring that highway safety for all transport users is not detrimentally impacted upon. Development proposals should meet all highway access requirements, (for all transport users), 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.

Both Welsh Government Transport and PCC Highways have been consulted on the application. PCC Highways have confirmed that they have no comment to make in relation to the development and Welsh Government Transport has withdrawn its holding objection following confirmation regarding how the solar panels will be delivered to site.

The agent has confirmed that while the panels will not be treated with an anti-glare coating, the solar panels are black Monocrystalline modules which are designed to reduce glare. The agent also notes that the raised elevation of the array, higher than local dwellings or roads also reduces any possibility of glare.

Officers consider that based on the above comments and consultee advice, the proposed development fundamentally complies with LDP policies DM13 and T1.

Landscape

LDP policy DM4 confirms that development proposals must also be appropriate and sensitive with regard to the character and qualities of the Powys landscape and have regard to LANDMAP and the visual amenity enjoyed by users of the landscape. Further details are provided in the Landscape SPG.

With regard to the five areas of landscape assessment defined on LANDMAP the proposed development site has been evaluated with regard to Visual and Sensory and Landscape Habitat criteria as of moderate or local importance and with regard to Geological and Historic landscape criteria as of high or regional importance.

On balance it is therefore considered that the landscape of and surrounding the development site is of moderate quality and importance. There will be minimal loss of existing landscape features as a result of development and an existing access will be utilised.

With reference to the above observations and based upon the design details submitted, it is considered that there is unlikely to be any unacceptable impact upon the Powys landscape as a result of development. In this regard the proposal is in compliance with LDP policies DM4, SP7, DM13 and the Landscape SPG.

Public Footpaths and bridleways

Policy SP7 of the LDP further confirms that development proposals must have no unacceptable adverse impact on any of the County's strategic resources or assets which includes the Public Rights of Way Network.

There are a number of public rights of way in the vicinity, most notably the 150/218/2 bridleway which passes in front (to the south) of the field in which the application site sits. Other rights of way are located in excess of 50 metres from the development site.

While Officers consider that the proposed development would not have an unacceptable adverse impact on the Public Rights of Way network nor upon the amenity of the wider landscape and surrounding area in accordance with LDP policies SP7, DM4 and DM13,

an informative note has been included to ensure that all Public Rights of Way remain unaffected during construction of the development.

Mineral Safeguarding

LDP policy DM8 states that non-mineral development proposals within Mineral Safeguarding Areas will only be permitted where it can be demonstrated by the developer that: 1. The mineral resource is not of potential future value; or 2. The development is of a temporary nature and can be completed and the site restored to a condition that would allow for future extraction; or 3. The mineral can be extracted satisfactorily prior to the incompatible development taking place; or 4. Extraction would not meet the tests of environmental acceptability or community benefit as set out in National Policy; or 5. There is an over-riding need in the public interest for the development; or 6. The development is householder development and / or of a very minor nature such as extensions to existing dwellings, and associated development within the curtilage of the property.

The proposed development is located within an area designated for the safeguarding of sand and gravel. However, it is considered that the proposed development is of a temporary nature such that once the use is no longer required the site could be restored to a condition that would allow future mineral extraction. Officers therefore consider the proposal to be appropriate and in accordance with LDP policy DM8.

Biodiversity and Geodiversity

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. This is further emphasised within Technical Advice Note (TAN) 5.

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

River Wye Catchment Area

The application site is wholly located within the catchment of the 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 an HRA to determine whether they are likely to have a significant effect on the SAC condition.

The application has been screened in accordance with Natural Resources Wales' advice for planning applications affecting phosphorous sensitive river Special Areas of Conservation (SACs) (updated July 2022). The screening confirmed that the development is unlikely to increase phosphate inputs as it fell within the following criterion in the current published advice:

“Any development that does not increase the volume and phosphorus concentration of wastewater.”

Protected Species

The proposed development is a ground mounted solar array located within an existing agricultural field which is considered to be of low ecological value. The application has been reviewed by NRW who do not consider that the application will impact upon any of their consultation topics and therefore have no comment to make.

Based upon consultee advice and the design proposed, Officers do not consider that the proposed development will unacceptably affect protected species and in this respect is therefore compliant with policy DM2 of the Powys LDP, Technical Advice Note 5 and Planning Policy Wales

Biodiversity Enhancement

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.

Two woodcrete bird boxes are included on plan 0025/2 and their inclusion is considered appropriate to the scale of the development proposed.

External Lighting

Due to the application site's location in the open countryside, Officers consider the inclusion of a condition controlling external lighting to be appropriate.

Officers therefore consider that subject to appropriately worded planning conditions the proposed development complies with LDP Policy DM2 and DM7, the Biodiversity SPG

and TAN5.

Built Heritage

Local Development Plan (2018) policy SP7 seeks to safeguard strategic resources and assets in the County, whilst development proposals must not have an unacceptable adverse impact on the resource or asset and its operation.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'. The Barnwell Manor case the Court of Appeal made it clear that in enacting s.66 (1), Parliament had intended that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carried out the balancing exercise. Therefore, special regard must be given to the desirability of preserving listed buildings and their setting and any harm caused should be given considerable weight within the planning balance.

It is acknowledged that two grade II listed buildings are located within proximity of the application site (Wye Siphon Outlet House approximately 275 metres away and Old House Felindre approximately 200 metres away). Having considered the distance between the listed building and the application site and the intervening built development, it is not considered the proposed development is visible from the listed building. It is therefore considered that the proposed development will not harm the setting of this listed milestone.

It is therefore considered that the proposed development would not detrimentally harm the setting of the listed building and is in accordance with relevant planning policy and in particular LDP Policy SP7.

Agricultural Land Classification

Planning Policy Wales (11th edition, 2021) outlines national policy towards conserving Wales' Best and Most Versatile (BMV) agricultural land. Further guidance is provided in Technical Advice Note (TAN) 6, including the consultation arrangements with the Welsh Government included at Annex B. The Predictive Agricultural Land Classification (ALC) Map indicates that the application site is classified as 'Moderate to Poor quality agricultural land' (3b/4). Planning Policy Wales (PPW) seeks to protect agricultural and grade 1-3a.

Land graded 1 – 3a is considered of the highest quality and development must be protected (Future Wales – The National Plan 2040).

Given the classification of the application site, it is not considered that development on the proposed site would result in the loss of high grade agricultural land, compliant with Planning Policy Wales (11th Edition, 2021).

Surface Water Drainage

Welsh Water has been consulted on the proposed development and raised no objection to the development subject to the inclusion of a condition regarding no surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network

In light of the above and subject to the recommended condition it is therefore considered that the proposed development fundamentally complies with relevant planning policy.

RECOMMENDATION – Conditional Consent

Having carefully considered the proposed development, for the reasons discussed above, Officers are satisfied that the proposed development is in accordance with planning policy.

The recommendation is therefore one of conditional consent subject to the conditions detailed below.

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 approved documents (application form, email dated September 15th 2022 regarding delivery arrangements for 80 solar panels to the site, Sunfixings Park Terra Ground Anchor Brochure V062018) and plans (0025/1, 0025/2, 0025/3).
3. No external lighting shall be installed within the development hereby permitted 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.

4. The Biodiversity Enhancement features, namely two woodcrete bird nest boxes shall be erected upon permanent features within the site at a minimum height of 2 metres above ground prior to the first use of the solar array hereby approved. Thereafter, the features shall be retained as approved in perpetuity.
5. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.
6. Within 6 months of the decommissioning of the PV array hereby approved, a scheme for the restoration and after-care of the site shall be submitted to and approved in writing by the Local Planning Authority in order to ensure beneficial re-use of the land.

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 comply with Policies DM2, DM4 and DM7 of the Powys Local Development Plan 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.
4. 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, February 2021), TAN 5: Nature Conservation and Planning and Part1 Section 6 of the Environment (Wales) Act 2016.
5. To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.
6. To comply with Powys County Council's LDP Policy RE1 in relation to Renewable Energy and to meet the requirements of Planning Policy Wales (Edition 11, February 2021) and Future Wales 2040 – The National Development Plan.

Advisory Notes

Welsh Water

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

WATER SUPPLY

Dwr Cymru Welsh Water has no objection to the proposed development.

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.

Public Rights of Way

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.

Case Officer: Emma Jones, Planner
Tel: E-mail: emma.jones3@powys.gov.uk