

Planning, Taxi Licensing and Rights of Way Committee Report

Application Number: 22/2099/HH

Grid Ref: E: 295187
N: 283848

Community Council: Llanidloes Community

Valid Date: 08.12.2022

Applicant: Mr O Koffer

Location: Hafod, 38 Garden Suburb, Llanidloes, Powys, SY18 6EU

Proposal: Extend existing drop kerb and widen access to create vehicular parking

Application Type: Householder

The reason for Committee determination

The application has been 'called-in' by the Local Member.

Consultee Responses

Consultee

Received

Community Council

2nd Feb 2023

No Objection

PCC-Building Control

No comments received at the time of writing this report.

Councillor Gareth Morgan

13th Dec 2022

I strongly support this application. In view of the proposed highway orders being imposed opposite the property granting of consent is essential.

Subsequent comments:

I wish as County Councillor for Llanidloes to call in the application for consideration by the Planning Committee.

The reason for calling in the application is that the grounds for refusal fail to take into account that the majority of the other properties facing the highway have accesses into their gardens. Why should this application be treated differently.

There is no road danger involved because the speed limit is restricted to 20mph, there is traffic calming in the area and it has no history of accidents. The Highway Authority has published a draft order prohibiting parking in front of the property. I believe the applicant is having a raw deal and is subject to discrimination.

PCC-(M) Highways

19th Dec 2022

The proposed development gains access off the B4518 within the 20mph zone.

We note from the submitted layout drawing that no detail of the proposed access visibility splays has been submitted for consideration. In accordance with Manual for Streets, the requisite access visibility splays are 2.4 x 25m in each direction. We further note the applicant does not control sufficient frontage to construct the required access visibility splays, and that the adjacent hedges (not in the applicant's control) would need to be setback to achieve the required Y distances. We further note that Notice has not been served on the relevant landowner[s] in accordance with Welsh Government Planning Circular WGC016/2014.

We understand from the LPA that Notice should be served on third-party landowners in accordance with WGC016/2014, to be able to apply conditions on land to which the applicant does not control, known as Grampian Conditions. As Notice has not been served, any condition relating to the access visibility would be ultra-vires.

The 'existing' access is an uncontrolled pedestrian crossing point, rather than a dropped kerb for vehicular access. Should the application be allowed, the applicant would be required to relocate the uncontrolled crossing, in accordance with the Common Standards Guide 2020.

As the proposed access/driveway is located on a classified road, a turning area is required to ensure that vehicles may enter and exit the access in a forward gear. We note from the submitted drawings that the applicant controls insufficient frontage to allow the parking and turning of vehicles.

Whilst we note the reason[s] leading to the submission of the application, we must be mindful of all road users when assessing planning applications, especially those with mobility and/or visual impairments. We are also mindful that this location on the B4518 is in very close proximity to Llanidloes Primary and High Schools, therefore, there shall be a high number of pedestrian movements in the area of the proposed access with many of

those pedestrians being children.

The Planning Inspector for appeal number APP/T6850/A/15/3136739 stated at Paragraph 6 "...The driveway is also deficient in width to allow a vehicle to turn easily either resulting in several manoeuvres adjoining the footway which would be dangerous to unseen pedestrians or could result in a reversing manoeuvre onto the busy A44. At this point such a manoeuvre would be dangerous for the driver and other road users because the vehicle would be obscured by the hedge and parked vehicles and visibility for the driver would be similarly restricted for the same reasons."

Unfortunately, as submitted the application is contrary to LDP Policies DM13 (10) & T1, Manual for Streets, WGC016/2014, and the Common Standards Guide 2020. Therefore, the Highway Authority are unable to offer support to the application.

PCC-(M) Highways

11th Jan 2023

The Highway Authority (HA) have reviewed the revised drawing/detail submitted in support of the application and wish to make the following comments.

We note the applicant proposes a 1.7m setback position (X distance) for the access visibility splays. However, Manual for Streets (MfS) is precise in its requirements for the setting out of visibility splays.

Section 7.7.6 (Page 92) states "An X distance of 2.4 m should normally be used in most built-up situations, as this represents a reasonable maximum distance between the front of the car and the driver's eye." Section 7.7.7 further adds "A minimum figure of 2 m may be considered in some very lightly-trafficked and slow-speed situations, but using this value will mean that the front of some vehicles will protrude slightly into the running carriageway of the major arm. The ability of drivers and cyclists to see this overhang from a reasonable distance, and to manoeuvre around it without undue difficulty, should be considered."

The area of the proposed access on the B4518 is neither "very lightly-trafficked" nor "slow-speed", therefore, a setback position of 2m is not considered appropriate in this location.

A setback position of less than 2m is not discussed in MfS, nor any other highway design guidance, due to the relationship between the X distance and the position of the driver in a motorised vehicle (2.4m behind the front of the vehicle). MfS accepts that with a 2m setback that most vehicles shall overhang the major arm, as highlighted above.

Very lightly-trafficked and slow-speed situations as described by MfS relates to cul-de-sac streets designed using the principles within the guidance. Such principles include horizontal

alignment, traffic calming including pinch points, 2m wide footways, etc.

The location of the proposed development is on a Class II through road which is a main route from the nearby Trunk Road into the town of Llanidloes. Whilst the application site is within a 20mph zone (being situated between two schools) with traffic calming within 35m to the north and south, it is not classed as slow-speed and the B4518 is not lightly-trafficked.

We note the applicant states in their recent resubmission "I do not believe that it is reasonable to ask my neighbours to move their hedges back by approx 1m, and I don't think any such request would be granted by them. It would complicate the whole process to the point of making the proposals unachievable."

The applicant should be aware that roadside mirrors require the approval of Welsh Government (WG), and that such decisions cannot be made locally. WG only allow the construction of a roadside mirror in cases where there is no other alternative such as a fixed structure, and the mirror needs to be located by them using satellite positioning to prevent causing nuisance to oncoming drivers. Furthermore, planning consent would still be required for the vehicular access, parking and turning areas.

The HA actively remove roadside mirrors which have been constructed in the highway including its verge, where no consent has been obtained from WG.

We note the applicant's comments in relation to their start/finish times of work and their existing vehicles, however, the application relates to the development rather than the applicant's personal circumstances. The applicant's place or time of work and their vehicle[s] may change at any time and would not require planning consent, and any condition in this regard would be contrary to the planning test.

The HA are unable to locate any planning consent detail for neighboring properties, notwithstanding this, the applicant should be aware that applications are considered against current guidance, policy and case law. Therefore, an application previously consented may not have been considered against current guidance, policy and case law, as they are in the majority live documents subject to regular review and updating.

It is the responsibility of a frontager to ensure that their access is fit for purpose, and a drivers responsibility when using an access which is unsafe. Should the applicant wish to discuss/review the consideration of particular planning applications, they should contact the LPA. Similarly, should they wish to raise issue with perceived unsafe access[es]/non-compliance with planning conditions, such complaints should be made directly to the LPA.

Unfortunately, as per our previous response, the applicant does not control sufficient frontage to the B4518 to provide the requisite access visibility splays. Furthermore, no detail has been submitted to demonstrate that there is sufficient area within the site to

ensure that all vehicles are able to enter and exit the site in a forward gear.

As stated in our previous response, the application is contrary to LDP Policies DM13 (10) & T1, Manual for Streets, WGC016/2014, and the Common Standards Guide 2020.

Hafren Dyfrdwy

12th Dec 2022

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

Hafren Dyfrdwy advise that there is a public 150mm combined sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Hafren Dyfrdwy to discuss the proposals. Hafren Dyfrdwy will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer.

PCC-Rights Of Way Senior Manager

9th Jan 2023

The application does not acknowledge the existence of the public right of way within the development boundary.

In addition to the above, Powys County Council has a duty to 'assert and protect' public rights of way under the Highways Act 1980. The applicant should note:

- o Development over, or illegal interference with, a public right of way, is a criminal offence and enforcement action will be taken against any applicant who ignores the presence of affected public rights of way. This includes temporary obstructions such as rubble mounds, building materials, parked vehicles etc...
- o Landscaping & Surfacing - Advice will need to be sought before interfering or surfacing a public right of way.
- o 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.
- o Temporary closures - The applicant can seek a temporary closure of a public right of way from the council if they feel the public may be at risk during the works. The process can take a couple of months to put into place so early consultation with Countryside Services is recommended if a temporary closure is required. This is a separate procedure

for which a fee applies.

o Legal Diversion - If development directly affects a public right of way, the applicant 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.

Representations

Following the display of a site notice on 13/12/2022, no public representations or objections have been received at the time of writing this report.

Planning History

App Ref	Description	Decision	Date
None			

Principal Planning Constraints

Flood Zone 2 for Surface Water & Small Watercourses
LDP Development Boundaries

Principal Planning Policies

Policy	Policy Description	Year	Local Plan
NATPLA	Future Wales - The National Plan 2040		National Development Plan 2021
PPW	Planning Policy Wales (Edition 11, February 2021)		National Policy
TAN5	Nature Conservation and Planning		National Policy
TAN12	Design		National Policy
TAN15	Development and Flood Risk		National Policy
TAN18	Transport		National Policy

DM2	The Natural Environment	Local Development Plan 2011-2026
DM4	Landscape	Local Development Plan 2011-2026
DM5	Development and Flood Risk	Local Development Plan 2011-2026
DM6	Flood Prevention Measures and Land Drainage	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
DM15	Waste Within Developments	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 application site is located within Llanidloes Town Council area and the LDP development boundary for Llanidloes. The site is located adjacent to the B4518 county highway, facing towards the primary and secondary schools on the opposite side of the highway.

Consent is sought for the installation of a dropped kerb to form a vehicular access to the site to allow the off-street parking of vehicles.

Principle of Development

TAN 18 and policies DM13 (Part 10) and T1 of the Powys LDP set out the principle of development for the creation of a new vehicular access. Development proposals should meet all highway access requirements, should not adversely affect the safe and efficient flow of traffic on the network and ensure that highway safety for all transport users is not detrimentally impacted upon.

In light of the above, it is considered that the principle of development for a new access at this location complies with relevant planning policy, subject to the below considerations.

Highways

A safe access, parking and visibility splays are a fundamental requirement of any development and consideration has therefore been given to LDP: DM13, Part 10, T1 and TAN 18.

As the application would result in the creation of a vehicular access, the Highway Authority have been consulted on the application. The Highway Authority (HA) originally noted that the application had not been accompanied by any drawings detailing the proposed visibility splays for the development, or turning area to allow vehicles to enter and exit in a forward gear. Further, the HA also noted that the applicant does not control sufficient frontage to achieve the required visibility splays and that vegetation belonging to neighbouring properties would block the splays. They also noted that given the site's location near to both Llanidloes Primary and Secondary schools, there is a high number of pedestrian movements in this area who must also be considered.

Further information was later submitted by the applicant, which included an amended plan with visibility splays.

The Highway Authority have been re-consulted and have noted that the splays as shown on the amended plan are not in accordance with Manual for Streets, and that a setback distance of 1.7 metres is not sufficient. The applicant has acknowledged that if the splays are setback 2.4 metres, as required, that a splay of 25 metres in each direction cannot be achieved, which the HA agree with. The HA have also noted that no detail has been

submitted to demonstrate that there is sufficient area within the site to ensure that all vehicles are able to enter and exit the site in a forward gear.

Overall, the application has failed to demonstrate that a safe means of access can be achieved. As such, the proposed development does not comply with planning policies DM13 Part 10, T1 and TAN 18.

Neighbour Amenity

In considering the amenities enjoyed by occupiers of neighbouring properties consideration has been given to the LDP Residential Design SPG & LDP: DM13 (Part 11).

The proposed vehicular access is not considered that have any impact upon neighbouring properties in terms of light, privacy, or overlooking.

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

Biodiversity

In accordance with TAN 5: Nature, Conservation and Planning, and Powys LDP Policy DM2: The Natural Environment, as part of the planning process Powys LPA should ensure that there is no unacceptable damage to biodiversity as a result of a proposed development.

The application would result in the removal of approximately 8 metres of mature hedgerow in order to achieve access to the site. Whilst this does not require permission in its own right, the planning process is required to ensure that a net benefit in biodiversity is secured through all planning proposals. As such, compensation for the loss of this habitat, and enhancement measures to result in a net benefit would be required in the event of planning approval. This would be secured through an appropriately worded condition.

In light of the above, it is considered that the proposal complies with relevant planning policies.

Flood Zone

The western boundary of the site, adjacent to the B4518, falls within Flood Zone 2 of 'Surface Water and Small Watercourses' of the Flood Maps for Planning (FMfP).

Given that the site is within an existing built up area, and the extremely minor amount which falls within the site which is not already formed of hard surfacing, it is not considered that the proposal would have any detrimental impact upon the risk of surface water flooding. Indeed if permission were to be granted, it would be subject to a condition

requiring all surface water generated within the site, to be distributed within the site, and not allowed to discharge onto the highway.

In light of the above, it is considered that the proposal complies with relevant planning policies.

Public Rights of Way

It is noted that PCC Rights of Way have commented on the application, stating that there is a public right of way through the development site. Having reviewed information held on public rights of ways, there is not one within the development site. The ROW opposite will not be impacted by the proposed development.

Conclusion

Having carefully considered the details submitted together with all statutory consultee responses, it is considered that the proposal would not comply with planning policy in that a safe access cannot be achieved through the development as currently proposed.

RECOMMENDATION

Refusal

Reasons

1 The proposed development would result in a substandard access which would have an unacceptable impact on highway safety and it is therefore contrary to policies T1 and DM13 part 10 of the Powys Local Development Plan (2018), Technical Advice Note 18, and Planning Policy Wales (Edition 11, 2021).