



PLANNING, ACCESS AND RIGHTS OF WAY COMMITTEE

DEVELOPMENT CONTROL RELATED MATTER FOR DECISION

Application Number:	18/16018/FUL	Date Validated:	06 June 2018
Site Address:	The White Swan Llanfrynach Brecon		
Grid Ref:	E: 305112 N:228552	Proposal:	Alterations and additions to an existing public house and restaurant, to include the following work: 1. Partial demolition of existing building. 2. Sub-division of public house into a public house and two holiday let unit. 3. New rear extension to provide new entrance, toilets and kitchen at ground floor and 5 guest suites at first floor. 4. New rear annex to provide 4, one bedroom apartments for holiday lets 5. New rear annex to provide 2x 2 bedroom cottages for holiday lets and bin and bicycle storage. 6. Alterations to vehicle access, parking and external areas.
Case Officer:	Ffion Bevan	Community:	Llanfrynach

This application is being reported back to PAROW following the Members recommendation at the last PAROW Committee on the 18th June 2019, to be minded to Permit the application contrary to Officer recommendation for refusal.

Introduction

An application for Full Planning Permission was received on the 13th April 2018 and was validated with a change in description by the Authority on the 6th June 2019 to describe the following development:

- Partial demolition of the existing building to rear of the existing pub.
- Sub division of the public house into public house and two holiday let units
- New rear extension to provide a new entrance, toilets and kitchen at ground floor and 5 guest suites at first floor. This would replace an existing single storey structure to the rear of the building. It would extend out approximately 16 metres from the exiting rear wall of the public house.
- New rear annex to provide 4 x 1 bedroom apartments for holiday lets. This would replace an existing single storey projection to the rear of the building. It would be separate building and would measure approximately 33 metres in depth and 12 metres in width.

- New rear annex to provide 2 x 2 bedroom cottages for holiday lets and bin and bicycle storage would be located adjacent to the car parking area and would be a separate building. It would measure approximately 33 metres in width and (including bin and bicycle storage) and 12 metres in depth.
- Alterations to vehicle access, parking and external areas. This includes the provision of 41 car parking spaces within the site.

The application was presented to the Planning and Rights of Way Committee on the 18th June 2019 with a recommendation for refusal for the following reason:

Given the policy position of Technical Advice Note 15: 'Development and Flood Risk' in respect of Highly Vulnerable Development within a C2 Flood Zone and in the absence of an acceptable Flood Consequence Assessment, it is considered that the proposal is contrary to the requirements of Technical Advice Note 15.

Following the presentation and debate, Members decided that contrary to the Officer recommendation they were minded to Permit the application on the following grounds:

1. NRW removing their objection subject to the adoption of the conditions (as set out in their letter filed to the application 14th June 2019). The NRW response is discussed later within this report.
2. Important to village resilience and community cohesiveness. Members were of the opinion that a public house within the village is an asset that adds to the character of the village and helps to create a sense of community. The LDP recognises the contribution that pubs and associated business make to the vitality of rural villages. This was discussed the original report to PAROW.
3. Existing use and previously developed land. The proposed development would be located within the existing car park of the public house and as such can reasonably be considered to be an extension of the existing use of the site. The use of previously developed land (brownfield land) for new proposals is encouraged over new greenfield sites by both the LDP and Planning Policy Wales.
4. Sustainable economic development otherwise supported by policy. The re-opening of the pub and additional provision of holiday accommodation would add capacity to the local economy and tourism offer in the area. The LDP supports appropriate sustainable employment generating development in rural areas.

Members requested that the application be presented to the next committee meeting with suggested conditions and further consideration of the late response received from Natural Resources Wales in relation to the impact of the proposed development on Flood Risk.

Town and Country Planning (Notification) (Wales) Direction 2012

If Members are minded to approve the application, in accordance with the Town and Country Planning (Notification) (Wales) Direction 2012, as an Authority, we are required to refer the application to Welsh Government, prior to issuing the decision notice.

The Chief Planning Officer's letter dated the 29th June 2012 and the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2017 advises that the Local Planning Authority (LPA) must refer applications to the Welsh Ministers where they do not propose to refuse proposals for highly vulnerable development in a C2 flood zone.

The Direction states that in cases consisting of residential development, the threshold is set at 10 or more dwellings. However, it goes on to state that the types of development listed in the direction for “highly vulnerable development” are based on those set out in Figure 2 of TAN 15: Development and Flood Risk (2004) Figure 2 provides the definition of highly vulnerable development and this includes “All residential premises (including hotels and caravan parks)”.

The LPA cannot determine the application within a period of 21 days from when the Welsh Ministers receive the required information. However LPA’s can determine the application before the expiry of 21 day period if they have been notified in writing by the Welsh Minister that either they do not intend to issue a direction under section 77 of the Town and Country Planning Act 1990, or they do not consider the development to be ‘notification development’. Furthermore after the expiry of 21 days and there is no notification from the Welsh Ministers the LPA can proceed to determine the application.

The application is hereby presented with the requested conditions and information.

Consideration of Natural Resources Wales’ consultation response

A late consultation response was received from NRW on Friday the 14th June 2019. This correspondence is fundamental to the outcome of this application.

NRW have advised that they continue to have significant concerns with the proposed development as submitted and recommend that it should only be granted if a suitably worded condition is attached. This conditions would address the significant concerns that NRW have identified and they would not object to the proposals provided that the conditions are attached to any planning permission.

NRW have confirmed in their response that based on the amended information provided within the FCA, they are satisfied that the risks and consequences of flooding associated with this development are capable of being appropriately managed and no objection is raised.

However, NRW remind the Authority within their response of the policy consideration raised by the application that highly vulnerable development should not be permitted in a C2 flood zone. They also refer the Authority to Section 6 of TAN 15 and the Chief Planning Officer letter from the Welsh Government, affirming that highly vulnerable development should not be permitted on Zone C2.

It is therefore the case that the development remains contrary to TAN 15 Para 6.2.

However, in response to the NRW comments received and Members being minded to permit the application, further clarification on the flooding issues is presented and addressed below.

Finished Floor Level

NRW have requested in their response that the finished floor levels should be set at the following levels:

- Cottages 1 & 2 - 137.838m AOD
- Cottages 3 & 4 - 137.990m AOD
- Apartments 1 to 4 - 137.918 AOD
- Existing Public House – 137.500 / 137.610 AOD (to include an access threshold upstand of +50mm above these levels).

Amended Plans have been received to reflect these alterations, however this has had a marginal impact on the ridge-heights of the new cottages and apartments. The changes are minimal and all new ridge lines still remain lower than the ridge of the existing main roof of the White Swan Inn and are therefore considered acceptable.

Water Displacement

This element of the proposal is addressed within the most recent Flood Consequence Assessment and Addendum letter dated the 11th June 2019. The modelling undertaken has revealed that there would be maximum disbursement of 5.89 cubic meters in the worst possible conditions, and NRW confirm in their response that this is negligible and can be discounted. The new drawings have been updated to include low level openings in the wall separating the buildings from the car park, as recommended within the FCA.

Officers have suggested the possibility of additional tree planting on and/or off site to mitigate the impact of water disbursement. Following discussion with the agent, it is considered that this is not feasible for two reasons:

- 1) Additional planting on site would result in the loss of car parking spaces. Given that Powys County Council Highways have requested the proposed amount of car parking spaces within the site, it is considered that it would be inappropriate at this stage of the application to re-negotiate parking spaces within the site.
- 2) Additional tree planting elsewhere off site would not be reasonable or necessary to enable the proposed development and as such could not be justified in planning terms or reasonably tied to the application.

Climate Change consideration

In relation to the impact of Global Warming it is noted that the reported flood risk levels for the application include the following:

- An increased allowance of 70% for global warming
- The assumption of the current flood bund upstream is removed
- The assumption that the downstream bridge is blocked.

As such, the flood datum used in the report assumes all three of the above events are in play and as such, Global Warming has been taken into account.

Further correspondence has been received from Llanfrynach Community Council by Dr Mervyn Bramley (voluntary advisor on management of flood risk to the Llanfrynach Community Council). A summary of his comments are set out below:-

Summary

- i. Historical flooding was shallow, exacerbated by reduction in river channel capacity (NRW have required the FCA to include such reduction in capacity).
- ii. DAM “broad-scale” model and FCA required detailed modelling, as carried out by Ambiental, to understand consequences of flooding – hazards to people.
- iii. The FCA has assessed extreme flood scenario that indicates a very low flood risk. New build will have floor level above flood level.
- iv. Flood levels would remain within the “low risk” zone on velocity/depth hazard matrix.

- v. The Nant Mensagin Channel maintenance work being undertaken by the Llanfrynach Community Council is to maintain, not increase channel capacity.
- vi. Maintaining flood conveyance is achieved by the proposed condition of securing openings in the boundary wall, as set out in the FCA and by NRW.

A copy of the full response is available on our web site at:- [Dr M BRAMLEY Flood Risk Comments 25.06.19.pdf](#)

Suggested Conditions

Following Members decision to be 'Minded to Permit' the above application, the following conditions are proposed to be attached to any decision notice:-

Conditions

- 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2 The development shall be carried out in all respects strictly in accordance with the approved plans (drawing no's W1557.01 (Site Location Plan), W1557.05C (Proposed Site Layout), W1557.06A (Proposed Ground Floor Layout), W1557.07A (Proposed First Floor Layout), W1557.08B (Elevations Proposed), W1557.09B (Elevations Proposed), W1557.10B (Elevations Proposed), W1557.17 (Landscape and Drainage Plan), W1557.18A (Site Boundary and Sections), W1557.19 (Staircase Screen)) unless otherwise agreed in writing by the Local Planning Authority.
- 3 The holiday let accommodation hereby approved shall be used for holiday accommodation only and for no other purpose including any other purpose within Class C of the Schedule of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
- 4 The holiday let accommodation hereby approved shall not be let to or occupied by any one person or group of persons for a continuous period of longer than 3 months in any year and in any event shall not be used as permanent accommodation. A register of lettings, including the names and main home addresses of guests, shall be kept up-to-date and made available for the Local Planning Authority to inspect at all reasonable times.
- 5 Prior to construction, details of the external steps, boundary walls (to include samples) and the colour of the metal privacy screen shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved detail.
- 6 Prior to construction, details of the paved courtyard, including samples shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved detail.
- 7 Prior to construction, walling and roof materials (including samples) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved detail.
- 8 The following mitigation measure must be implemented, as detailed in the FCA undertaken by Ambiental, Reference 4303 (Version 4) dated 31st May 2019 and the letter from Ambiental, Reference 4303_4229_Llanfrynach, dated 11th June 2019:
 - Finished Floor Levels to be set as follows:
 - Cottages 1 & 2 – 137.838m AOD
 - Cottages 3 & 4 – 137.990m AOD

Apartments 1 to 4 – 137.918mAOD

Existing Public House – 137.500/137.610mAOD (to include an access threshold upstand of +50mm above these levels)

- 9 The following mitigation measure must be implemented, as detailed in the FCA undertaken by Ambiental, Reference 4303 (Version 4) dated 31st May 2019 and the letter from Ambiental, Reference 4303_4229_Llanfrynach, dated 11th June 2019:
- The proposed 1.8metre high boundary wall (indicated on the Landscape & Drainage – Drawing No. W1557/17), situated along the western edge of the development between the car park and the adjacent properties, shall contain openings of at least 300mm above existing ground level. The number and location of these openings is to be agreed with the LPA, in consultation with NRW. The development shall be constructed in accordance with the approved details.
- 10 The developer will ensure that a suitably qualified archaeological contractor is present during the undertaking of any ground works in the development area, so that an archaeological watching brief can be maintained.
- The archaeological watching brief will be carried out in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority and must meet the standards laid down by the Institute for Archaeologists in their Standard and Guidance for an Archaeological Watching Brief.
- A copy of the Watching Brief report shall be submitted to the Local Planning Authority for approval. Following approval, the report will be submitted to the National Park Archaeologist and the local Welsh Archaeological Trust for inclusion in the Regional Historic Environment Record (HER).
- 11 No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.
- 12 The proposed development site is crossed by a public sewer. The position shall be accurately located marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewer.
- 13 The applicant or their agent will notify the Local Planning Authority of the full establishment of the tree protection measures, so that the BBNPA tree consultant can inspect the tree protection measures PRIOR to the commencement of any site clearance, demolition, or construction work takes place.
- 14 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 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.
- 15 No other development shall commence until the new access has been constructed so that there is a clear visibility splay 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.
- 16 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.

- 17 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.
- 18 Before any other development is commenced the area of the new 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 10 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.
- 19 Within 5 days from the construction of the new access, the existing means of access shall be stopped up, in materials to be agreed in writing by the Local Planning Authority and shall be retained for as long as the development is in existence.
- 20 Prior to the first beneficial use of the remodelled building, provision shall be made within the curtilage of the site for the parking of vehicles as shown on the approved drawing W1557/17. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence
- 21 Prior to the first beneficial use of the remodelled building the area of the new access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 10 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.
- 22 No storm water drainage from the site shall be allowed to discharge onto the county highway.
- 23 The development shall be carried out strictly in accordance with the recommendations in Section 9 of the ecological report dated September 2017. Prior to the commencement of the development, the buildings shall be subject to an update assessment for bat presence and appropriate actions taken in the event that bat roosts are found to be present.
- 24 Within three months of the commencement of development works, a biodiversity enhancement scheme, to include provision of features for bat roosting (bat lofts with bat access and bat crevices) and bird nesting, shall be submitted to and approved in writing by the Local Planning Authority. The biodiversity enhancement scheme shall be undertaken and/or installed prior to the first beneficial use of the development hereby approved, in accordance with the approved details. Following the installation of the approved scheme, a report confirming adequate installation shall be submitted to the Local Planning Authority.
- 25 Within three months of the commencement of the development, a landscaping plan that shall include use of native species, shall be submitted to and agreed in writing with the Local Planning Authority. The landscaping plan shall be based on the scheme submitted in drawing no. W1557.17 and shall be implemented in the first planting season following the implementation of the development and maintained thereafter. The plan shall include details of the planting specifications – the species, sizes and planting densities - and a timetable for implementation and future management to ensure good establishment.
- 26 No external lighting shall be installed until an external lighting plan is submitted to and approved in writing by the Local Planning Authority. The scheme shall avoid conflict with bat mitigation/enhancement measures and wildlife corridors and shall be implemented as approved.

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 a satisfactory form of development.
- 3 The National Park Authority is not prepared to allow the introduction of an unrestricted unit of residential accommodation in this rural location.
- 4 To ensure the approved holiday accommodation is not used for permanent residential accommodation as the National Park Authority is not prepared to allow the introduction of an unrestricted unit of residential accommodation in this rural location.
- 5 To protect the visual amenity and setting of the surrounding area
- 6 To protect the visual amenity and setting of the surrounding area
- 7 To protect the visual amenity and setting of the surrounding area
- 8 To reduce the risk and impacts of flooding to the proposed properties and their owners/occupiers, and to maintain unobstructed conveyance of overland flood flows during the 0.1% extreme flood event.
- 9 To reduce the risk and impacts of flooding to the proposed properties and their owners/occupiers, and to maintain unobstructed conveyance of overland flood flows during the 0.1% extreme flood event.
- 10 To ensure that any remains of archaeological significance disturbed in the course of the work are excavated, recorded and reported.
- 11 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.
- 12 To protect the integrity of the public sewer and avoid damage thereto protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.
- 13 In the interest of protection of trees in accordance with policy 8 of the BBNP Local Development Plan.
- 14 In the interest of Highway Safety
- 15 In the interest of Highway Safety
- 16 In the interest of Highway Safety
- 17 In the interest of Highway Safety
- 18 In the interest of Highway Safety
- 19 In the interest of Highway Safety
- 20 In the interest of Highway Safety
- 21 In the interest of Highway Safety
- 22 In the interest of Highway Safety
- 23 To comply with Section 6 of Planning Policy Wales (2018), Technical Advice Note 5 and Policies SP3, 1, 3, 4, 6, 7 and 12 of the adopted Local Development Plan for the BBNP
To comply with the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2017 (as amended) and the Environment (Wales) Act 2016
- 24 To comply with Section 6 of Planning Policy Wales (2018), Technical Advice Note 5 and Policies SP3, 1, 3, 4, 6, 7 and 12 of the adopted Local Development Plan for the BBNP
To comply with the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2017 (as amended) and the Environment (Wales) Act 2016
- 25 To comply with Section 6 of Planning Policy Wales (2018), Technical Advice Note 5 and Policies SP3, 1, 3, 4, 6, 7 and 12 of the adopted Local Development Plan for the BBNP
To comply with the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2017 (as amended) and the Environment (Wales) Act 2016
- 26 To comply with Section 6 of Planning Policy Wales (2018), Technical Advice Note 5 and Policies SP3, 1, 3, 4, 6, 7 and 12 of the adopted Local Development Plan for the BBNP
To comply with the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2017 (as amended) and the Environment (Wales) Act 2016

Informative Notes

- 1 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
- 2 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 on 0800 085 3968 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.
- 3 **Warning: A European protected species (EPS) Licence may be required for this development.** This planning permission does not provide consent to undertake works that require an EPS licence. It is an offence to deliberately capture, kill or disturb EPS or to recklessly damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine. To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at: <https://naturalresources.wales/conservation-biodiversity-and-wildlife/european-protected-species/?lang=en>
- 4 Work should halt immediately and Natural Resources Wales (NRW) contacted for advice in the event that protected species are discovered during the course of the development. To proceed without seeking the advice of NRW may result in an offence under the Conservation of Habitats and Species Regulations 2017 (as amended) and/or the Wildlife & Countryside Act 1981 (as amended) being committed. NRW can be contacted at:
NRW, Cantref Court, Brecon Road, Abergavenny, NP7 7AX Tel: 0300 065 3000
- 5 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>

Recommendation

That Members note the content of the above report and further consider the application.

If Members are minded to approve the application, in accordance with the Town and Country Planning (Notification) (Wales) Direction 2012, as an Authority, we are required to refer the application to Welsh Government, prior to issuing the decision notice.

If following the 21 day consultation period we have not been notified in writing by the Welsh Government that either they do not intend to issue a direction under section 77 of the Town and Country Planning Act 1990, or they do not consider the development to be 'notification development', we can proceed to determine the application.