



Llywodraeth Cymru
Welsh Government

ATISW 20778 - ITEM 048

MA/JJ/3111/21

From:

██████████
Planning Decisions
0300 025 3491

Cleared by:

Date:

██████████
13 September 2021

MINISTERIAL ADVICE

For decision by: Julie James AM, Minister for Climate Change

Copied to: First Minister

Deputy Minister for Climate Change

Subject	Call-in request – Full planning application for the proposed erection of an affordable dwelling on land at ██████████ ██████████
100 word summary	The Minister is being asked to decide whether to call in the planning application for determination by the Welsh Ministers
Timing	A decision is requested by 30 September.
Recommendation	To call in the application.
Decision report	This decision requires a decision report.

ADVICE

Background

1. The application is for full planning permission for the construction of a single dwelling on land at [REDACTED] in Ceredigion ("the LPA"). The application site is located outside the settlement boundary and in open countryside, and is not allocated for residential development in the adopted Local Development Plan ("LDP").
2. The application was referred to the LPA's Planning Committee on 19 May with a recommendation from officers to refuse consent as the proposal was contrary to policies in the LDP. Members resolved to grant permission contrary to officer advice.
3. You received requests from 5 members of the public to call in this application.
4. The issues raised by the requestors on this application are summarised as:
 - The application site lies within the 'other locations' as identified in the adopted Local Development Plan where development is strictly controlled.
 - The proposal conflicts with national planning policy on affordable dwellings.
 - The site is not a sustainable location.
5. A Direction under Article 18 (1) of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 was issued on 21 May. This prevents the LPA from granting planning permission for the development in question, and the Direction remains in force until it is withdrawn by the Welsh Ministers.

Advice

Consideration

6. The main issue to consider in assessing whether an application should be called in by the Welsh Ministers is whether the application raises issues of more than local importance. The Welsh Government's policy on calling in planning applications is set out in planning Policy Wales Edition 11, February 2021 ("PPW"). It sets out six examples of situations which may persuade the Welsh Ministers it is appropriate to call in an application. These include when applications:
 - are in conflict with national planning policies;
 - could give rise to substantial controversy beyond the immediate locality;
 - are likely significantly to affect sites of scientific, nature conservation or historic interest, or areas of landscape importance;
 - raise issues of national security;
 - may have wide effects beyond their immediate locality; or
 - raise novel planning issues.

7. Consideration of the specific issues raised in the call-in requests are listed below, with reference to the LPA's report which considers whether to recommend the grant of planning permission or not ("the officer's report").
 - **The application site lies within the 'other locations' as identified in the adopted LDP where development is strictly controlled.**
8. The proposed dwelling is located on open countryside, near to one existing rural dwelling. The officer's report correctly identifies the relevant policies in the adopted LDP, and the policies which might be used to permit the application exceptionally.
9. Policy S04 "Development in 'Linked Settlements and Other Locations'" permits housing development within or immediately adjacent to the substantive built form of an existing settlement. Housing in all 'other Locations' are inappropriate unless it accords with the requirements of Technical advice Note 6 "Planning for Sustainable Rural Communities ("TAN 6").
10. Policy S05 allows for development not in accordance with policy S04 where it can be shown that the proposal would meet a demonstrated unmet affordable housing need, or is a rural enterprise dwelling. Such development will have ownership controlled in perpetuity, and must demonstrate it is affordable based on characteristics including plot location, plot size, build standard and property type.
11. The officer's report observes the proposal is not in accordance with policy S04. The officer's report also considers the evidence given in support of the application fails the exception test set out in policy S05, and is not a rural enterprise dwelling. It identifies a Planning Inspector's decision on a similar application which concluded that development in a similar location could not be interpreted as "infill" for the purposes of policy S04. The report concludes the development would not be in accordance with PPW Para 4.2.34 or the relevant LDP policies.
12. Whilst the officer's report correctly identifies the relevant policy issues and material considerations, the decision by Members was contrary to officer advice and fails to address any of these issues.
 - **The application site lies within the 'other locations' as identified in the adopted LDP where development is strictly controlled.**
13. The proposed dwelling is located on open countryside, near to one existing rural dwelling. The officer's report correctly identifies the relevant policies in the LDP.
 - **The proposal conflicts with national planning policy on affordable dwellings.**
14. The application proposes a dwelling of 166 sq.m in size. The applicant's agent also submitted a statement in support of the application, advising there were no equivalent affordable dwellings in the vicinity which were available on the market.

15. Local supplementary planning guidance defines the maximum size for an affordable dwelling as 137 sq.m. The report notes the proposed dwelling is significantly in excess of this maximum.
 16. Both local policy (S04, S05) and national policy on affordable dwellings (Technical Advice Note 2: Planning and Affordable Housing) require that where consent is granted for an affordable dwelling, then it is held affordable "in perpetuity", via mechanisms such as a Section 106 Agreement.
 17. The dwelling cannot be defined as affordable due to the size of the proposed build. No mechanism is proposed to retain the dwelling as affordable in perpetuity. Both these issues were identified in the officer's report. Members failed to provide a reason for deciding contrary to this advice in relation to either of these issues.
- **The site is not a sustainable location.**
18. The application site lies in the open countryside, 2km from the nearest village of Aberarth and 3.5km from Aberaeron. The proposal includes development of an access drive from the nearest adopted road to the site of the proposed dwelling.
 19. The officer's report identifies that the location is in the countryside and cannot be interpreted as part of or near to a linked settlement for the purposes of considering policy S04. The officer's report also notes that occupiers of the dwelling would be solely reliant on private car as a means of transport. It considers the proposal is contrary to local and national policy which seeks to promote sustainable means of travel, by ensuring that developments are located where services and facilities can already be accessed.
 20. Members resolved to grant consent contrary to advice in the officer's report on the sustainability issues raised.

Consultation

21. Officials sought the views of the Welsh Government Planning Directorate Plans and Policy Branches as part of the consideration of whether to call-in the application. Both Branches recommended calling in this application on the basis of contravention of national policy designed to protect the open countryside from unsustainable and unjustified new residential development.
22. Officials have also previously advised you regarding the high proportion of Member decisions to grant consent for single dwellings contrary to officer advice in Ceredigion County Council, as part of Planning Directorate's regular performance monitoring activities (MA-P/JJ/5748/19).

Conclusion

23. The issue at heart in any request for call-in is whether or not the application raises any of the issues listed in paragraph 5 above, or any others which may be considered of more than local importance in nature. In terms of conflict with national planning policies, the main consideration is whether the LPA has

- given due regard to the relevant national and local policies, and correctly interpreted them. This is ordinarily evidenced in the officer's report.
24. PPW places significant emphasis on place-making in order to achieve the Welsh government's policies on creating sustainable places. The proposed site is located outside of settlement limits, is not in an area allocated for development in the LDP and is not well served by sustainable public transport. It therefore does not demonstrate compliance with national sustainable place-making outcomes as set out in PPW. The application also fails the policy tests set out in policies S04 and S05 of the LDP.
 25. The officer's report correctly identifies and addresses these issues and comes to a reasoned recommendation to refuse planning permission. The Planning Committee, however, has set aside the advice of its officers in coming to its view.
 26. Members are entitled to set aside the advice of their officers when coming to a decision but they should set out clear planning reasons for doing so. In this case, Members have failed to provide clear planning reasons for determining an application contrary to adopted local and national policy, and contrary to the advice of officers.
 27. It is accepted the application could be considered to be small scale, does not raise any major controversy and has no effect beyond the immediate locality. However, it is considered the proposed development is a departure from the adopted LDP and is also contrary to national and local policies in respect of sustainability and placemaking. We consider the issues raised are such as to justify call-in in this particular case.
 28. You also called in three applications for single dwellings in Ceredigion in 2020, where Members resolved to grant permission contrary to officer advice to refuse, based on the principles set out above. Each of those were subsequently refused on the grounds of sustainability and placemaking. Whilst each case is considered on its own merits, the LPA's Members continue to set aside professional advice, as well as national and local policy, in order to grant consent for dwellings in unsustainable rural locations.
 29. The call-in requests associated with this application claim statements of significant disregard for national policy on placemaking or intervention by the Welsh Ministers; whilst this has no bearing on the decisions whether or not to call in this application, it is indicative of a lack of response by Members to national and local policy on this issue, both on this case and for future cases. Officials anticipate that call-in requests for single dwellings in the countryside in Ceredigion will continue to be received.

Recommendation

30. Officials have assessed the request in the light of all the above information and, on balance, **recommend the application should be called in for determination by the Welsh Ministers.**

Annex 1: ASSURANCE AND COPY RECIPIENTS

CLEARANCE TRACKING

Aspect	Tracking	Yes	No	N/A	Clearance no.
Finance	Financial implications over £50,000?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	Cleared by Group Finance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	Cleared by Strategic Budgeting?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	Cleared by Local Government Finance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Legal	Legal issues?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	Cleared by relevant lawyers?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Governance	Novel and contentious issues?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	Cleared by Corporate Governance Unit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

DEPUTY DIRECTOR, STATEMENT OF ASSURANCE

In clearing this MA, I confirm that I, [REDACTED] have quality assured this advice, ensuring it is provided on the basis of evidence, accurately presents the options and facts and I am accountable for the recommendations made

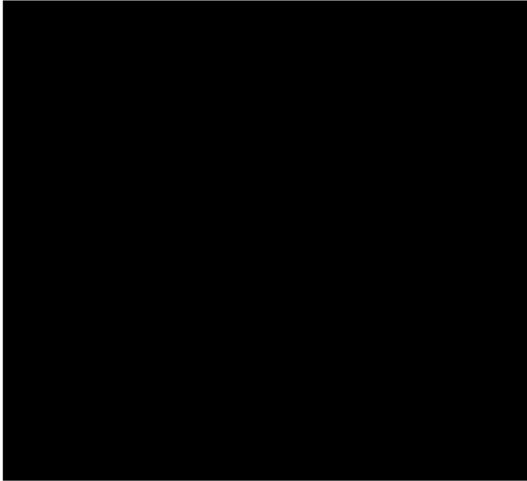
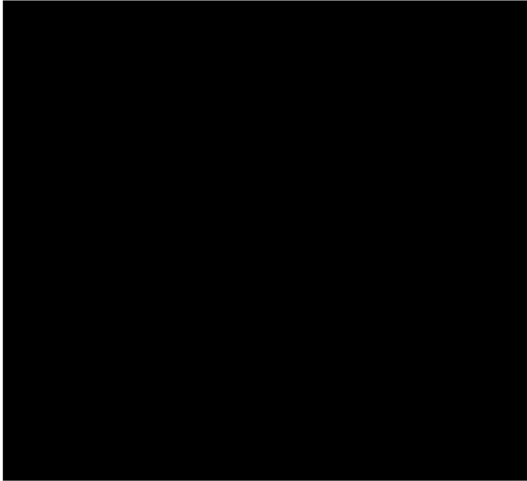
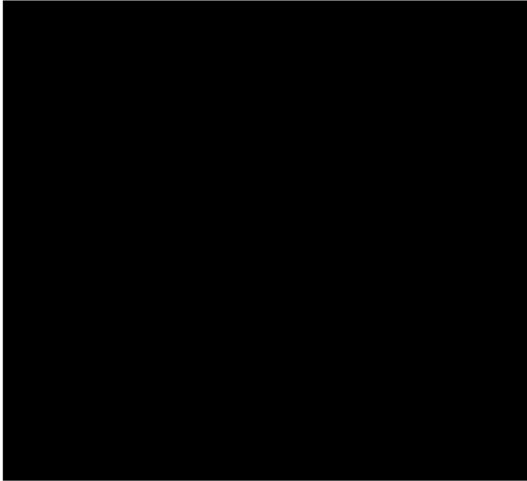
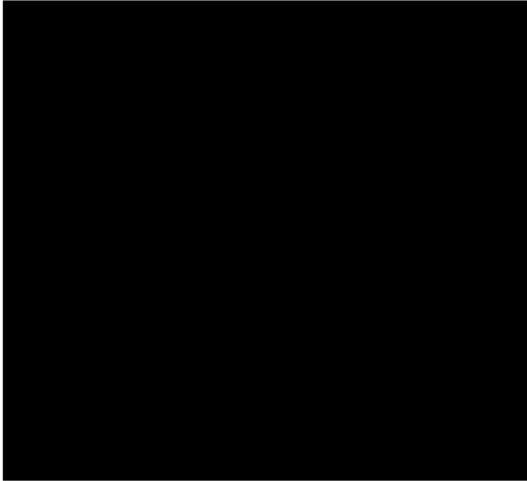
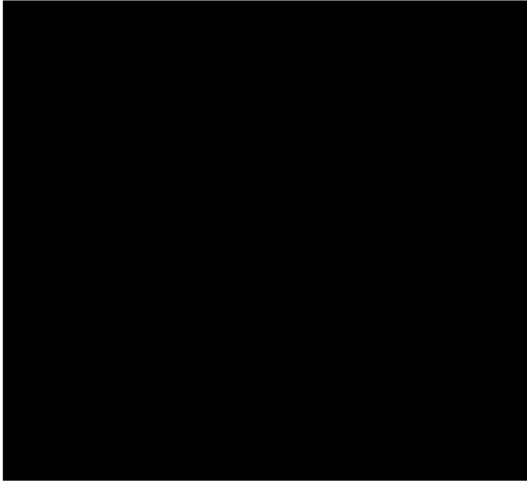
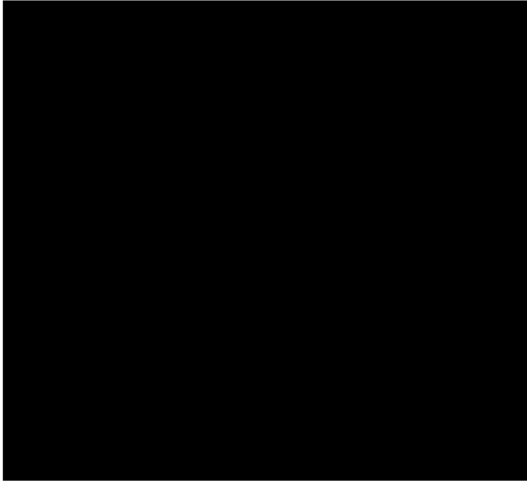
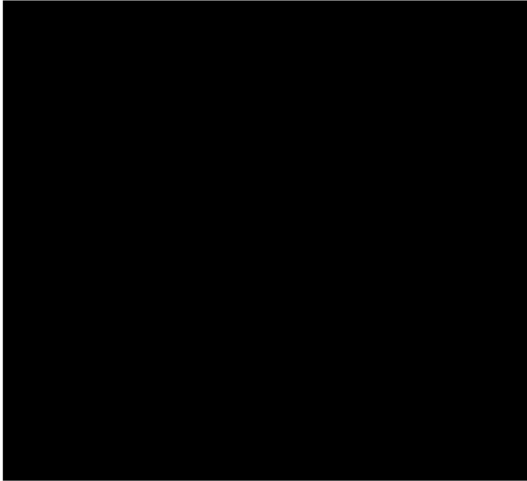
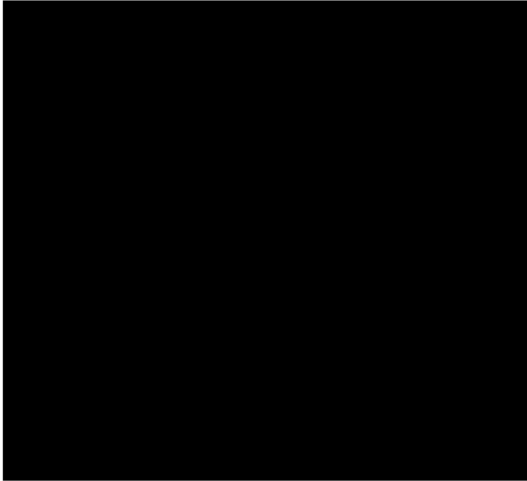
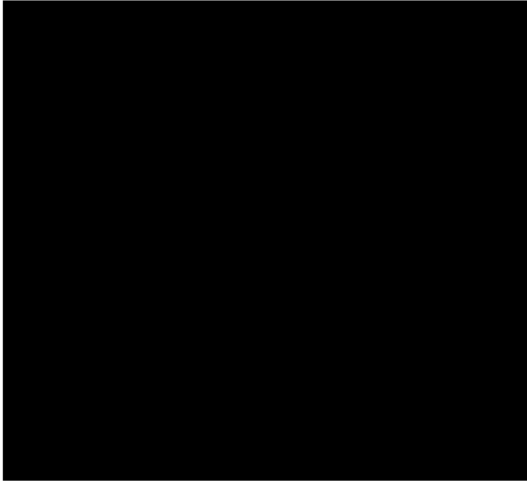
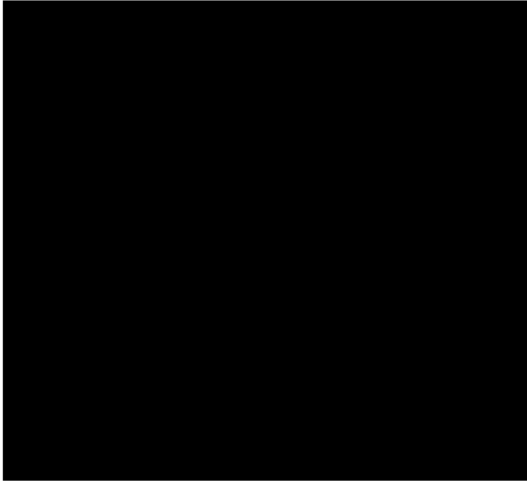
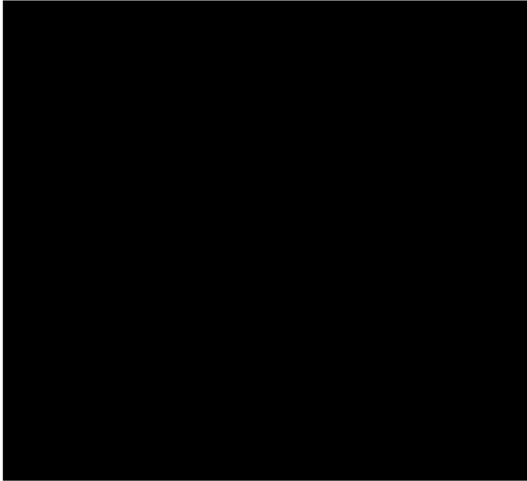
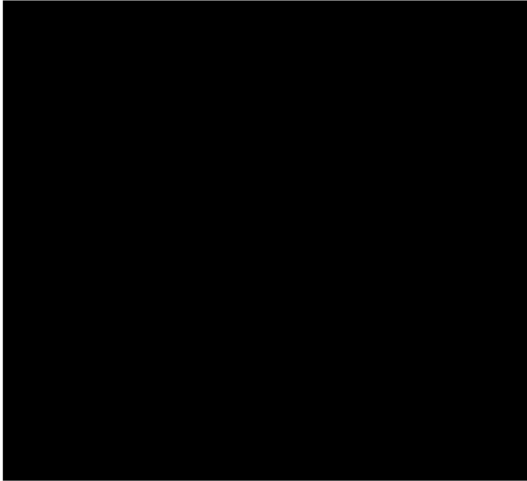
I am satisfied that the recommended decision or action, if agreed, would be lawful, affordable and comply with all relevant statutory obligations. Welsh Government policy priorities and cross portfolio implications have been fully considered in line with delivery of the government objectives.

I have fully considered the statement of assurance contained in the MA guidance to ensure all relevant considerations have been taken into account and that the actions and decisions take account of regularity, propriety and value for money.

COPY LIST

This submission advises on a planning decision; all copies are for information only and not for comment.

All mandatory copy recipients (as indicated in the guidance). Additional copy recipients specifically interested in this advice:

- PS First Minister
- PS Deputy Minister for Climate Change
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- Environment and Rural Affairs Finance mailbox
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