

REFERENCE: P/21/854/FUL

APPLICANT: Joanne, Claudia & Jessica Hegarty
White Gates, Tyn y Caeau Lane, Coychurch, Bridgend CF35 6AD

LOCATION: **White Gates, Tyn y Caeau Lane, Coychurch, Bridgend CF35 6AD**

PROPOSAL: Retention of vehicular access

RECEIVED: 9 September 2021

APPLICATION/SITE DESCRIPTION

This application seeks consent for the retention of a new access and track that has been constructed to serve the property known as White Gates which lies in the countryside to the east of Brackla and to the northwest of the village of Coychurch.

Work on the access commenced in December 2020 and involved the removal of a 17m section of hedgerow and earth embankment on the eastern side of a section of 'old road' that runs alongside the B4281/Heol Simonston.

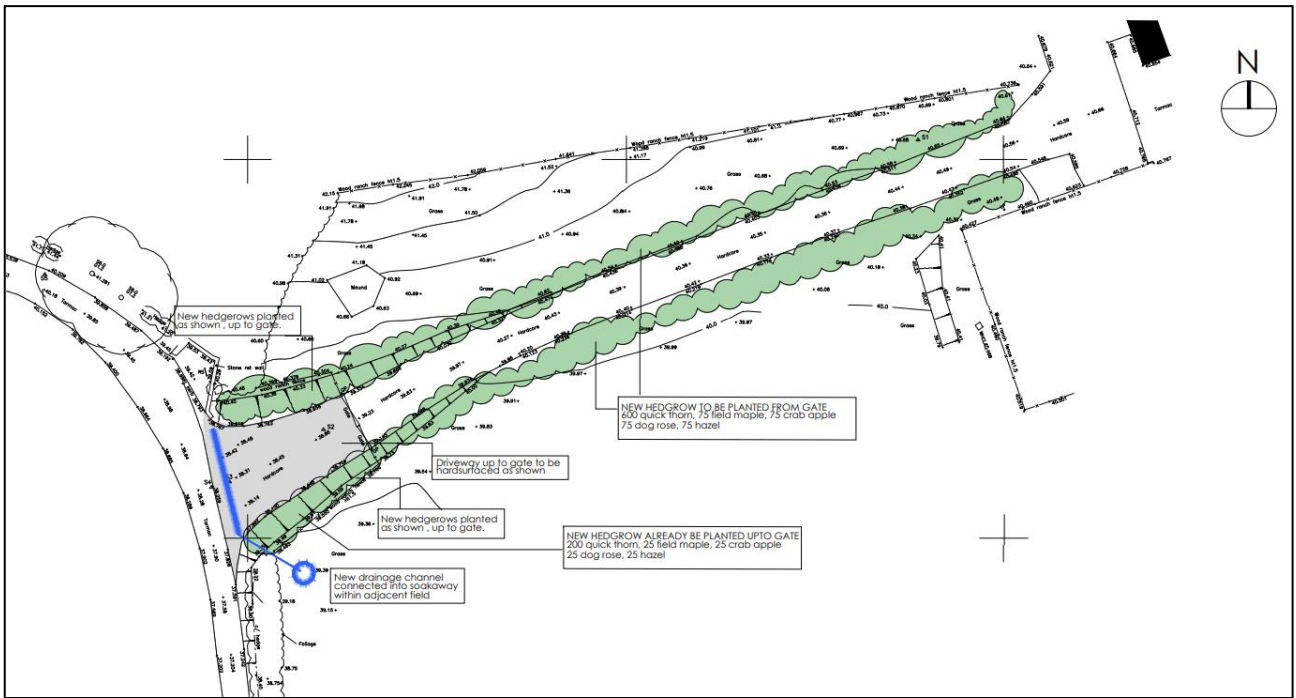
Subsequent excavation works formed the bell-mouth of the access and a 75m long track that connects a complex of farm and equestrian buildings to the new access.

The composition of the road is typical of internal modern farm trackways with quarried aggregate used for the sub-base and tarmac road plainings for the surface. The access track is gated, positioned some 13m back from the edge of carriageway. Ranch fencing has also been erected alongside the track

An aerial photo of the new track is reproduced below:



The latest plan submitted with the application (extract below) includes a new drainage channel at the mouth of the access to prevent run-off onto the highway and new hedge planting either side of the access and track. Some of the landscaping works have commenced.



Photographs of the access are reproduced below for Member's consideration:



RELEVANT HISTORY

Application Reference	Description	Decision	Date
70/005	Agricultural workers dwelling	Conditional Consent	9/2/71
P/98/756/RLX	Removal of conditions 1 & 2 relating to agricultural occupancy consent	Refused	3/11/98
P/98/945/LAE	Certificate of Lawfulness to remove agricultural condition from consent.	Approved	18/12/98

CONSULTATION RESPONSES

Cllr Elaine Venables – No comments received.
Local Member

Coychurch Lower Community Council

Having reviewed the Planning application documents the members of the Coychurch Lower Community Council do not support this application and are disappointed that in these times of ecological concern and regard for biodiversity that

hedgerow can be demolished without any regard to replanting.

Highways Officer No objection subject to conditions.

Biodiversity Policy and Management Officer No objection subject to conditions.

Land Drainage Section No objection.

REPRESENTATIONS RECEIVED

The application has been advertised on site.

Neighbours have been notified of the receipt of the application.

The period allowed for response to consultations/publicity has expired.

Letters of objection have been received from the occupier of 9 Heol y Capel and the operator of Bryn Glamping Limited in Coed y Mwstwr. The following is a summary of the objections received:

- The hedgerow was removed in contravention of the Hedgerow Regulations
- Works were carried out during the breeding and nesting season – significant impact on the environment - this also contravenes the Wildlife and Countryside Act 1981 and could lead to criminal prosecution. This hedgerow also forms part of a wildlife corridor connected to Coed y Mwstwr woods SSSI where there is a bat roost; hedgerows are used extensively by bats for navigation.
- The Landscape Character Assessment for Bridgend County Borough Council recommends encouraging hedgerow planting along slopes using climate-hardy species of local provenance to enhance the water storage functions of the landscape and improve water quality (through reduced runoff and diffuse pollution). The removal of this section of hedgerow and the field being higher than the road will encourage run off of storm water onto the lane which in turn will flow down impacting on the B4181 and its junction with Coychurch Road.
- Access issues should have been considered before purchasing the property as it is possible to manage the land using conventional equipment which has not proved a problem for farms in the area.
- Concerns in relation to the sink hole are no excuse for not seeking Planning approval to facilitate access prior to the work being carried out.
- The access should be finished in a hard surface
- Is the available vision sufficient to serve this development?
- The Council should request a traffic management plan to detail the movements in and out of the premises

The occupier of Ty'n y Caeau neither supports nor objects to the application but has provided background information that is intended to inform the decision process:

- Property originally approved as an agricultural worker dwelling but the condition was

relaxed – the property has subsequently been enlarged.

- Land is enclosed which makes access by large machinery difficult
- The wide access may encourage future non-agricultural uses.

The applicant's agent has submitted a Planning statement in support of the application, the main points of which are summarised below:

- Current access to the land is via Tyn y Caeau lane which is a narrow single, non-HGV accessible lane with no passing points - in places it is barely measures 2.5m - 2.7m
- Access for 'modern' agricultural vehicles, emergency services and tankers to empty the septic tank is difficult.
- Access problems highlighted by need to fill in a 'sink hole' that appeared on land in 2020 – no access was available for large construction vehicles
- The 'old road' had been the subject of fly tipping over recent years – this has ceased since the formation of the new access

COMMENTS ON REPRESENTATIONS RECEIVED

The objections that are material to the consideration of this application will be considered in the appraisal section of the report.

PLANNING POLICIES

Local Policies

The Bridgend Local Development Plan 2006-2021 (LDP) was formally adopted by the Council in September 2013:

Policy SP2	Design and Sustainable Place Making
Policy PLA4	Climate Change and Peak Oil – all development will be required to make a positive contribution towards tackling the causes of climate change.
Policy SP3	Strategic Transport Planning Principles
Policy PLA8 (1)	Development Led Improvements to the Transportation Network - B4281/Heol Simonston Improvement
Policy SP4	Conservation and Enhancement of the Natural Environment
Policy ENV1	Development in the Countryside
Policy ENV5	Green Infrastructure
Policy ENV6	Nature Conservation
Policy ENV7	Natural Resource Protection and Public Health
Policy SP6	Minerals
Policy ENV9	Development in Mineral Safeguarding Areas
Policy SP14	Infrastructure

Supplementary Planning Guidance 19	Biodiversity and Development
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National Policies

In the determination of a Planning application regard should also be given to the requirements of National Planning Policy which are not duplicated in the Local Development Plan. The following Welsh Government Planning Policy is relevant to the determination of this Planning application:

Future Wales – the National Plan 2040

Planning Policy Wales Edition 11

Planning Policy Wales TAN 5

Planning Policy Wales TAN 6

Nature Conservation and Planning

Planning for Sustainable Rural

Communities

Tree Preservation Orders

Design

Transport

Planning Policy Wales TAN 10

Planning Policy Wales TAN 12

Planning Policy Wales TAN 18

WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015

The Well-being of Future Generations Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles to act in a manner which seeks to ensure that the needs of the present are met without comprising the ability of future generations to meet their own needs (Section 5).

The well-being goals identified in the act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of well-being goals/objectives because of the proposed development.

THE SOCIO-ECONOMIC DUTY

The Socio-Economic Duty (under Part 1, Section 1 of the Equality Act 2010) which came into force on 31 March 2021, has the overall aim of delivering better outcomes for those who experience socio-economic disadvantage and whilst this is not a strategic decision, the duty has been considered in the assessment of this application.

APPRAISAL

Based on the objection received from the Community Council and the two residents, this application has been referred to the Development Control Committee for determination.

Having considered the application plans and documents, the relevant national and local policy and the comments and observations received, the main issues to consider in the determination of this application are:

- The effect of the works on the character and appearance of the area
- The impact on any biodiversity interests
- The acceptability of the new access with reference to highway safety

The effect of the works on the character and appearance of the area

The site lies to the east of the B4281/Heol Simonston within the countryside to the north of Coychurch. In line with sustainable development and the national Planning principles and in contributing towards placemaking outcomes, the countryside must be conserved and, where possible, enhanced for the sake of its ecological, geological, physiographic, historical, archaeological, cultural and agricultural value and for its landscape and natural

resources. The need to conserve these attributes should be balanced against the economic, social and recreational needs of local communities.

Policy ENV1 of the Bridgend Local Development Plan 2013 represents the starting point for the assessment of all development proposals in 'the countryside' and confirms that all development will be strictly controlled. It does include an 'exception' list of developments that may be acceptable. Agriculture, appropriate rural enterprises where a countryside location is necessary, transportation and/or utilities infrastructure and outdoor recreational uses are referenced in the Policy. Based on the supporting statement, it is understood that the access is being used in connection with the existing agricultural and equine uses on site. It could therefore reasonably be argued that the principle of the development accords with Policy ENV1.

As to the details, it was necessary to remove a section of existing mature hedgerow to form the new access. Objectors have suggested that the works constituted a breach of the Hedgerow Regulations 1997. That is however is not certain - whilst it is clear that the hedgerow forms a boundary with agricultural land it may have been less than 20m in length. Furthermore, the Regulations indicate that permission may not be required under the Regulations if the hedgerow is removed to form an access. That is however subject to the new access replacing an existing one which should be replanted or where there is no other means of entry or such an access could only be formed at a disproportionate cost.

No evidence has been submitted to suggest that the works would be exceptions on this basis. Nevertheless, the application has been submitted under the Planning Act and will be considered on its Planning merits with reference to all relevant policies. Should the application be refused, the Council could consider using the Hedgerow Regulations (or other powers) to require the provision of a replacement hedge.

Two of the strategic objectives of Policy SP4 require the character of the countryside landscape and its biodiversity and habitats to be conserved and enhanced wherever possible. Furthermore, Policy ENV6 requires that trees and hedgerow should in the first instance be retained. Where it is demonstrated that it is not possible, suitable mitigation or compensatory measures will be required to secure biodiversity including future management programmes. Development proposals are also required to avoid or overcome harm to nature conservation assets and/or species of wildlife which may be either resident, in-situ or which can be demonstrated to have frequented habitats within the site on a migratory basis.

The application site lies within Landscape Character Area 10: Coity Rural Hinterland according to the Landscape Character Assessment for Bridgend County Borough produced by LUC in 2013. The area is described as a sparsely settled landscape providing a rural buffer between the settlements of Bridgend and Pencoed. The undulating lowland landscape is characterised by bands and blocks of broadleaved woodland linking to hedgerows (often grown out into tree lines) which produces a strong sense of enclosure and wooded character. Distinctive small-scale field pattern of improved and semi-improved pastures marked by a strong framework of mature hazel, holly and hawthorn hedges with frequent oak and ash standards are also prevalent.

The hedgerow that forms the western boundary of White Gates and runs alongside the section of old road contributes to the character of this landscape. Quantifying the impact of the loss of a section of hedge to form the access is however challenging. Managing the hedgerows to strengthen the landscape's character are stated objectives in the Council's Landscape Character Assessments. Any actions therefore to remove such features would be at odds with this guidance. The applicant has sought to justify the works on the basis that the existing access arrangements to serve the rural enterprise are deficient and make

land management difficult and costly. Whilst it is accepted that modern farm machinery and equine equipment may be larger, any improvements that constitute development must be considered in the balance of conserving the countryside's important attributes but also recognising the economic, social and recreational role it plays.

Whilst the supporting evidence may not in itself be sufficient to justify the loss of the hedgerow, part of this landscape feature has been removed. In the circumstances, the Council could refuse the application and require its reinstatement. Policy ENV6 does however suggest that where landscape features are not retained, suitable mitigation or compensatory measures will be required. Following negotiations, the applicant has submitted an amended plan that proposes the planting of two native hedgerows along the new southern and northern boundaries of the field that has been crossed by the new access track. Hedgerows approximately 80m in length will run from the access to the existing yard at the rear of White Gates. In time and with careful management, the hedgerows will strengthen the small-scale historic field patterns that are part of the landscape of this area. Furthermore, in length, the new hedgerows not only mitigate for the loss of the section of roadside hedge but could in time provide an enhancement to the local landscape and biodiversity interests.

The visual impact of the works must also be considered in the context of the relevant policies and there is an argument that an additional access with the associated permanent removal of frontage hedging has an urbanising impact. That view would be more convincing were the access on the main section of highway. For users of the B4281/Heol Simonston, the access is barely noticeable being located on the 'old road'. The visual impact of the works are not grounds to alone to justify a refusal of permission.

The impact on any biodiversity interests

Criterion (10) of Policy SP2 of the Local Development Plan (2013) seeks to ensure that biodiversity and green infrastructure is safeguarded. This follows the approach identified in Planning Policy Wales which confirms that Planning Authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity (Section 6 duty).

Section 6(2) goes on to state that "In complying with subsection (1), a public authority must take account of the resilience of ecosystems, in particular (a) diversity between and within ecosystems; (b) the connections between and within ecosystems; (c) the scale of ecosystems; (d) the condition of ecosystems (including their structure and functioning); and (e) the adaptability of ecosystems."

Regulation 9 of the Conservation of Habitats & Species Regulations 2010 requires Local Planning Authorities to take account of the presence of European Protected Species at development sites. If they are present and affected by the development proposals, the Local Planning Authority must establish whether "the three tests" have been met, prior to determining the application.

The three tests that must be satisfied are:

1. That the development is "in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment".
2. That there is "no satisfactory alternative"
3. That the derogation is "not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range".

Criterion (3) of Policy ENV6 of the Local Development Plan (2013) states “proposals for development or redevelopment will be required to avoid or overcome harm to nature conservation assets and/or species of wildlife which may be either resident, in-situ or which can be demonstrated to have frequented habitats within the site on a migratory basis”. Its aim is to achieve a balance between the location, design and layout of development or redevelopment and the need to conserve that site’s biodiversity interest whilst also considering the interests of any adjacent nature conservation resources.

As indicated earlier in the report, a section of hedgerow has been removed to enable the formation of the new access. No information or evidence can be provided to confirm (or not) whether the hedgerow provided any habitats for protected species. Objectors suggest that clearance works were undertaken during the bird-nesting season. Such actions could have constituted a breach of The Wildlife and Countryside Act 1981 but would have been a matter for the Police to investigate. Whether this development caused a significant loss of habitat is unknown but to ensure the Council’s S6 duty is achieved, the development must provide a net benefit for biodiversity. The use of appropriate native species in the new hedgerows and the agreement of a management plan provides some mitigation for the loss of the original landscape feature. Given the extent of re-planting secured through the consent, it could in time provide a biodiversity enhancement. Therefore, subject to the inclusion of the recommended Planning conditions, this retrospective application is on balance acceptable, being compliant with Policy ENV6 of the Local Development Plan (2013) and criterion (10) of Policy SP2.

The acceptability of the new access with reference to highway safety

Policies SP2 and SP3 of the LDP promote safe, sustainable and healthy forms of transport through good design, enhanced walking and cycling provision and improved public transport provision. Improving road safety is one such objective of the policies.

As this is a retrospective application the vision available from the new access has been measured and is considered acceptable for an approach speed in the order of 30mph in both directions. The width of the access is quite substantial and whilst this may be required for access of large agricultural/equestrian vehicles, no swept path is provided to support this and demonstrate the extent of what is required. The access as laid out will need to be provided with permanent surfacing for the first 10m to prevent loose material being dragged out onto the highway. Furthermore, provision should be made to ensure that no surface water from the access discharges onto the highway.

Subject to the imposition of conditions, the access is acceptable in terms of highway safety and compliant with Policies SP2 and SP3 of the Bridgend Local Development Plan.

CONCLUSION

The formation of the access through the removal of a section of hedgerow that contributed to the character of this local landscape to the north of Coychurch does not fully accord with Policies of the Bridgend Local Development Plan that seek to protect the countryside.

Policies of the Plan do however confirm that where such features are lost, mitigation will be required. On the basis that the amended application is proposing extensive re-planting in the form of two new hedgerows which will create new landscape features and potential habitat, the application is on balance considered acceptable. In reaching this conclusion it is also noted that the access is acceptable in terms of highway safety.

RECOMMENDATION

(R64) That permission be GRANTED subject to the following condition(s): -

1. Within 3 months of the date of this permission, the access incorporating the hard

surfacing and drainage works shall be laid out in accordance with Drawing: COY – 660 – General Arrangement received on 11 May 2022. The development shall thereafter be retained and maintained in perpetuity.

Reason: To avoid doubt and confusion as to the nature and extent of the approved development.

2. Notwithstanding the details submitted on Drawing: COY – 660 – General Arrangement and within 1 month of the date of this permission, a detailed landscaping scheme (hedge planting) shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include planting plans including cultivation and other operations associated with new hedge establishment, schedules of plants noting species (native) plant sizes, proposed number/densities and an implementation and management plan.

The agreed landscaping scheme shall be carried out in the planting season November 2022 to March 2023.

Reason: To maintain and improve the appearance of the area in the interests of visual amenity and to promote nature conservation.

3. If within a period of up to five years from the date of the implementation of the landscaping scheme, any new part of the new hedgerow is removed, uprooted or destroyed or dies (or becomes in the opinion of the Local Planning Authority seriously damaged or defective), another hedgerow plant(s) of the same species and size as that originally planted shall be planted at the same place.

Reason: For the avoidance of doubt as to the extent of the permission granted and to maintain and improve the appearance of the area in the interests of visual amenity and to promote nature conservation.

4. * THE FOLLOWING IS AN ADVISORY NOTE NOT A CONDITION *
The formation of the access through the removal of a section of hedgerow that contributed to the character of this local landscape to the north of Coychurch does not fully accord with Policies of the Bridgend Local Development Plan that seek to protect the countryside. Policies of the Plan do however confirm that where such features are lost, mitigation will be required. On the basis that the amended application is proposing extensive re-planting in the form of two new hedgerows which will create new landscape features and potential habitat, the application is on balance considered acceptable. In reaching this conclusion it is also noted that the access is acceptable in terms of highway safety.

JANINE NIGHTINGALE
CORPORATE DIRECTOR COMMUNITIES

Background Papers

None