

**REFERENCE:** P/23/92/FUL

**APPLICANT:** Taylor Wimpey South Wales Ground floor, The Eastern Business Park, Wern Fawr Lane, Cardiff, CF3 5EA

**LOCATION:** Land south of former St Johns School (north of 22 Bryneglwyys Gardens) Newton Porthcawl

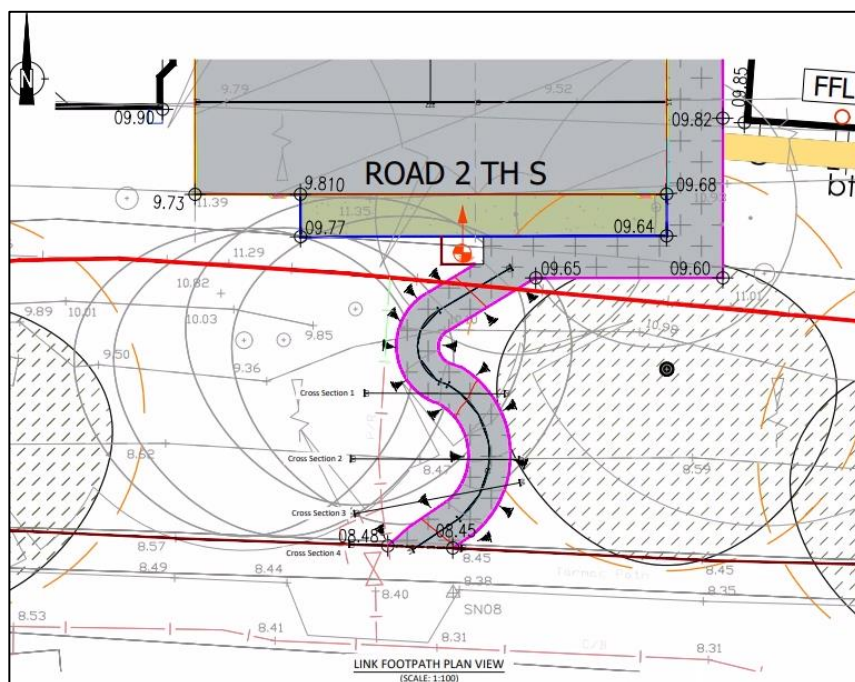
**PROPOSAL:** Proposed footpath and associated works

**RECEIVED:** 9 February 2023

### APPLICATION/SITE DESCRIPTION

Taylor Wimpey South Wales Ltd have submitted an application to construct a footpath that will connect the new housing development on the former St John's School site to the footpath that runs to the south, known locally as 'Puddle Lane'. This footpath and public right of way connects Birch Walk and Church Street and incorporates a 'kissing gate' and post and rail fence, mid-point along this section of the right of way to prevent unauthorised access.

This new 1.5m wide path will connect a new section of footway on the southern end of a turning head on the Taylor Wimpey development to the public right of way, in a s-shaped form, to achieve the required gradient over the changing site levels, which based on the submitted plan, fall some 1.2m from the highest point at the northern end of the proposed path. It will connect to the right of way on the eastern side of the 'kissing gate'. An extract from the submitted plan is re-produced below:



*Figure 1 – Link Footpath – Plan View*

The footpath is proposed at a gradient of 1:12 and will be finished in tarmac. Timber sleepers are proposed around the tree immediately east of the footpath. Cross sections of the route have been included in the latest plans.

Photographs of the site are re-produced below:



## RELEVANT HISTORY

Application Reference	Description	Decision	Date
P/20/263/FUL	Demolition of the existing buildings and construction of 57 dwellings, including 8 affordable apartments together with an off-site contribution, landscaping, public open space, SUDS and associated works	Conditional Consent	26/02/2021
P/21/266/CAC	Conservation Area Consent for the demolition of the existing school buildings within Newton Conservation Area	Conditional Consent	11/12/2021
P/21/211/RLX	Vary condition 1 (approved plans/documents) of P/20/263/FUL to update the drawings to correct the tree removal/tree retention plans and to update the landscaping scheme	Conditional Consent	06/07/2021
P/22/588/RLX	Variation of condition 1 of P/21/211/RLX – tree removal/tree retention plans & landscaping scheme.	Conditional Consent	11/05/2023

## CONSULTATION RESPONSES

### CONSULTEE

**Town Council**

### COMMENTS

Object until further details of the associated works are provided to Council.

The Town Council have been re-consulted on the revised plans received on 11<sup>th</sup> September. No further comments have been received to date.

### **Cllr J Pratt - Local Member**

Due to high public interest within my ward over the previous applications on this site and the anticipation of this application coming to light, I as the elected member of Newton would formally request that this is not decided by delegated officer powers and taken to the Development Control Committee for consideration.

I do expect several residents within and outside of my ward to object to this application.

The previous actions taken by Taylor Wimpey to remove trees has proved controversial amongst residents and groups alike. I am of the opinion given the level of complaints to the Enforcement Officer at Bridgend County Borough Council, that any further works on trees within the area is closely monitored, so as not to give any perception that the developer is not working outside of the proposed plan.

Concerns also that the new route could encourage the illegal use of the existing public right of way.

### **Highway's Section**

It is noted that the proposed link path will result in additional connectivity for future residents of the development to the existing rights of way network. In addition, the proposal meets the aims of the Active Travel (Wales) Act 2013 and PPW11 and is therefore acceptable. As a result of the above the Highway Authority offer 'No Objection' to the application.

### **Rights of Way Section**

Agree in principle to the creation of the link path but have specific requirements should Taylor Wimpey require the route to form part of the rights of way network. Measures will have to be introduced to deter illegal use of the route and the PROW it will connect to.

## 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 will expire on 10<sup>th</sup> October 2023.

Letters of objection have been received from the occupiers of the following properties:

22 Birch Walk\*, 6 Cypress Gardens and 10 Llys Penfro.

\* Public Speaker

The following is a summary of the representations received:

- The proposed footpath will be detrimental to the wildlife habitat and fauna at the location - this area has suffered loss of habitat and vegetation, including 4 large sycamore trees. The creation of a tarmac footpath that has been designed to minimise the gradient so it will occupy a much larger area (S-shape design) will result in a significant loss of the currently wild, green space.
- The proposal plans do not show any measure to provide a safe route for pedestrians on part of Puddle Lane. The effectiveness of the current kissing gate in Puddle Lane will be compromised should the new footpath be built as proposed. Works have effectively created an unsafe and unauthorised footpath from the development into Puddle Lane. Current arrangement allows access for unauthorised vehicles. The safety of pedestrians has been compromised by the unauthorised works to create a temporary footpath and safety would be similarly affected by the current design proposal that has not considered the ability to bypass the kissing gate, which was installed to eliminate these specific hazards.
- Clarification is required to confirm that the existing gate is to be retained along with the post and rail fence, and I would suggest that this fence is extended to meet the earth bank, with the height of the bank suitably increased, to ensure that access from the development site to the existing footpath can only be gained via the proposed path in the interests of all user's safety.
- The footpath should only be granted if the stone boundary wall that was removed during the work connecting the drainage pipes are replaced.

## **COMMENTS ON REPRESENTATIONS RECEIVED**

The main objections raised are addressed in the appraisal section of the report.

One of the objectors refers to a stone boundary wall being removed during the works associated with the installation of the drainage connections. No information is available as to the height of the wall and whether it would have required conservation area consent for its removal. It is however a separate matter and outside the scope of this application.

## **RELEVANT POLICIES**

### **Local Policies**

The Bridgend Local Development Plan 2006-2021 (LDP) was formally adopted by the Council in September 2013 and within which the following policies and supplementary Planning guidance are relevant:

Policy PLA1 Settlement Hierarchy and Urban Management

Policy SP2 Design and Sustainable Place Making Policy

Policy SP3 Strategic Transport Planning Principles

Policy PLA9 Development Affecting Public Rights of Way

Policy SP4 Conservation and Enhancement of the Natural Environment

Policy ENV5 Green Infrastructure

Policy ENV6 Nature Conservation

Policy SP5 Conservation of the Built and Historic Environment including Conservation Areas

SPG19: Biodiversity and Development

### **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 Nature Conservation and Planning  
Planning Policy Wales TAN 12 Design  
Planning Policy Wales TAN 10 Trees

### **WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015**

The Well-being of Future Generations (Wales) 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 compromising 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 as a result 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**

This application is referred to the Development Control Committee for determination at the request of the Local Member.

Taylor Wimpey is in the process of completing the re-development of the former St John's School site in Newton. The housing site is accessed from Birch Walk and incorporates a series of cycle/pedestrian links, with the principal route running in an east/west direction connecting Birch Walk to Church Street. Links to the public right of way to the south were not incorporated into the layout as the applicant does not control the corridor of the land between the site and the public right of way. A number of mature trees also formed a green barrier along the southern boundary but were removed to allow drainage connections to be made to the site. The proposed route will cross the cleared ground on the eastern side of the kissing gate and associated fencing in the manner described above.

The main issues to consider in the assessment and determination of this application are whether the principle of creating a footpath link in this location is acceptable and will the design and location of the route safeguard the amenities of the area and the living conditions of local residents. Critically is the route acceptable in terms of pedestrian safety.

Policy SP2 of the Bridgend Local Development Plan (Design and Placemaking) outlines that, “All development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment by (inter alia):

- Complying with all relevant national policy and guidance where appropriate
- Having a design of the highest quality possible, whilst respecting and enhancing local character and distinctiveness and landscape character
- Safeguarding and enhancing biodiversity and green infrastructure
- Having good walking, cycling, public transport and road connections within and outside the site to ensure efficient access
- Ensuring that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected”

### **Principle of the Development**

The site lies within the settlement boundary of Porthcawl and the proposal will improve the pedestrian accessibility of the proposed housing development. Whilst it is a minor addition, improved pedestrian links is an element in realising the LDP Strategy as it promotes sustainability, encourages healthier lifestyle and increased physical activity. The increased permeability of the site will reduce walking distance to amenities south of the site. Being located within a conservation area, the development should also conserve, preserve, or enhance the historic environment, (Policy SP5 refers) but this relates more to the detail than the principle of the link which is supported by national and local policies.

### **Having a design of the highest quality possible, whilst respecting and enhancing local character and distinctiveness and landscape character**

The groundworks associated with the formation of the new proposed pedestrian link will be relatively minor in comparison to the major housing development that it will serve and should have limited impacts on the visual amenities of the area. To achieve acceptable gradients, the route will transverse across the incline but with a relatively modest land take. Prior to works commencing on the housing development, this boundary was covered with trees and vegetation but as described above, the area was cleared, with the Local Planning Authority’s consent, to allow a drainage corridor to be formed. Residents have suggested that the footpath will be detrimental to the wildlife habitat and fauna, resulting in a loss of green space. Any loss will be modest although it will be necessary to revise the landscaping proposals for this part of the site as the line of the route will conflict with the agreed tree planting plan. A revised plan will be secured by planning condition and there is an opportunity to secure some additional planting in the areas surrounding the new pedestrian link.

### **Safeguarding and enhancing biodiversity and green infrastructure**

The supporting planning statement suggest that the development will have minimal ecological impact as it is proposed on land with minimal ecological value. No existing trees will be impacted by the proposed development, and measures have been introduced that will protect the trees from future users of the footpath.

Residents have suggested that the loss of trees and other associated works will have impacted on the site’s biodiversity interest. An Ecology Strategy for the whole development was agreed as part of the original consent and included tree and woodland retention where possible, provision of habitat buffers, sensitive drainage, the provision of open space and the sensitive arrangement of the proposed housing. Additional design measures included the enhancement of woodland habitat, new native tree and shrub planting, new bird nesting and bat roosting opportunities. The original strategy and new tree planting will address the Council’s Section 6 duty of providing a net benefit for biodiversity.

### **Having good walking, cycling, public transport and road connections within and outside the site to ensure efficient access.**

All development proposals should promote safe, sustainable and healthy forms of transport through good design, enhanced walking and cycling provision, and improved public transport provision. Reducing congestion, the need to travel, reliance on the private car and improving road safety are some of the principles that should be incorporated into development schemes.

As confirmed by the Highways Section, the proposed link path will improve connectivity to the existing rights of way network, meeting the aims of the Active Travel (Wales) Act 2013 and Planning Policy Wales. Residents have however suggested that the design of the route will encourage unauthorised use, reducing the effectiveness of the kissing gate and fences that were erected some years ago to deter such use. The plans as originally submitted did suggest that the existing fencing would need to be removed to accommodate the link path, but the latest drawings shows the fencing retained and extended to control access. A condition will be imposed to agree a scheme of access controls to the footpath to ensure that the route will be used appropriately in the future. This will be agreed in consultation with the Highway and Rights of Way Officer.

Local authorities are under a legal obligation to consider the need to prevent and reduce crime and disorder in all decisions that they take. Whilst the Department has not received any comments from the Police on this application, they have not always supported the creation of pedestrian links on the basis they could affect the quality of life for nearby residents. In this case the route will not be enclosed and will benefit from passive surveillance. Furthermore, such links are now considered important in promoting sustainability, encouraging healthier lifestyle and increased physical activity.

### **Ensuring that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected**

National policy confirms that new housing developments should be well integrated with and connected to the existing pattern of settlements. Local Planning Authorities should however ensure that development does not damage an area's character and amenity whilst also protecting the amenities of existing residents.

The nearest residents to the proposed link path occupy the properties on the new estate, (Llys Penfro) and to the south on Bryneglwys Gardens. Existing fences and walls form the side boundaries of no's 1 and 22 Bryneglwys Gardens and provide sufficient screening from the existing right of way and proposed link path. Even at the highest part of the path, there are no direct views into the windows or gardens of these properties.

For the residents of Llys Penfro, there are again no direct impacts from the construction of the route, but its position will attract users into this part of the estate. As indicated earlier in this report, the original layout did not accommodate any links to the footpath network to the south and new residents may have the expectation of living in a property within an 'access only' cul-de-sac'. The new residents that immediately adjoin the access have been asked to comment on the application and only one objection has been received. That related to the design of the route and controls over illegal access which can be secured by condition and have been addressed above. It was noted from a recent site visit that residents are already travelling from the turning head to the public right of way and a clear 'desire line' has been formed. A controlled route that is accessible by all is the preferable solution and can be delivered through this consent. The impact of additional pedestrians passing through this part of Llys Penfro on the amenity of residents is difficult to quantify but it is unlikely to generate any significant noise and disturbance above that associated with any residential street.

Overall, it is considered that the living conditions of existing residents will not be significantly compromised by this development.

## CONCLUSION

The primary objective of Planning Policy Wales is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental, and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation. It is the role of the Local Planning Authority to exercise its judgement and consider many and often conflicting issues to decide whether a development scheme is acceptable. The policies of the adopted Bridgend Local Development Plan (LDP) (2013) are the starting point and it is considered that the proposed footpath link will safeguard the amenities of the area and the living conditions of local residents. Furthermore, the proposed route is acceptable in terms of pedestrian safety. Notwithstanding the objections received, the proposal is compliant with local and national policy and no matters have been submitted or evidence provided to suggest that planning permission should be withheld. Subject to conditions, this development is acceptable.

## RECOMMENDATION

(R02) That permission be GRANTED subject to the following condition(s): -

1.	<p>The development shall be carried out in accordance with the following approved plans and documents:</p> <p>External Finishes – Drawing No: 190902_TWC_H-009 Revision D</p> <p>Reason: To avoid doubt and confusion as to the nature and extent of the approved Development.</p>
2.	<p>Notwithstanding the submitted plans, within 1 month of the date of this permission, a scheme to control access on the approved footpath link, including bollards, barriers and enclosures shall be submitted to the Local Planning Authority. The footpath link shall not be brought into beneficial use until the measures to control access have been implemented as agreed by the Local Planning Authority and the footpath link shall be retained and maintained in perpetuity thereafter.</p> <p>Reason: In the interests of highway safety.</p>
3.	<p>Notwithstanding the submitted plans, within 1 month of the date of this permission a revised landscaping scheme shall be submitted to the Local Planning Authority. The scheme shall include tree planting plans, an implementation programme and details of its management and maintenance. If within a period of 5 years from the date of the planting of any tree proposed as part of the landscaping scheme, or any tree planted in its replacement of it, is remove, uprooted or destroyed or dies or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place during the next planting season immediately following the death/removal/destruction of that tree. The approved landscaping scheme shall be carried out in the first planting season after the date of this consent and in accord with the approved details or in the first planting season following the footpath link being brought into beneficial use.</p> <p>Reason: In the interests of maintaining a suitable scheme of landscaping to protect the visual amenities of the area biodiversity value of the area.</p>



4.	<p><b>* THE FOLLOWING IS AN ADVISORY NOTE AND NOT A CONDITION</b></p> <p>The primary objective of Planning Policy Wales is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental, and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation. It is the role of the planning authority to exercise its judgement and consider many and often conflicting issues to decide whether a development scheme is acceptable. The policies of the adopted Bridgend Local Development Plan (LDP) (2013) are the starting point and its considered that the proposed footpath link will safeguard the amenities of the area and the living conditions of local residents. Furthermore, the proposed route is acceptable in terms of pedestrian safety. Notwithstanding the objections received, the proposal is compliant with local and national policy and no matters have been submitted or evidence provided to suggest that planning permission should be withheld. Subject to conditions, this development is acceptable.</p>
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**JANINE NIGHTINGALE  
CORPORATE DIRECTOR COMMUNITIES**

**Background Papers**

None