

Application Number: DM/2018/00417

Proposal: Improved visibility vehicular access to New House, close up existing access.

Address: New House Usk Road Llangwm Usk Monmouthshire

Applicant: Mr K Prince

Plans: Site Plan BP2412/00 - , All Proposed Plans BP2412/01 - C,

RECOMMENDATION: APPROVE

Case Officer: Mr Andrew Jones

Date Valid: 23.03.2018

1.0 APPLICATION DETAILS

1.0 This application relates to a property known as New House, which is located within a group of properties and buildings located off the B4235 (Usk to Chepstow) highway. To the south east of New House is Belmont Farm and associated farm buildings. There is an existing vehicular access to serve Belmont Farm and this has historically been shared by the occupier of New House who was related to the owners of Belmont Farm.

1.1 Planning permission (DC/2014/01150) was refused in January 2015 for the creation of a new vehicular access point onto the B4235 to serve New House Farm, separately from Belmont Farm. It was stated that the reason for this new access was that the existing access point to serve New House Farm is dangerous and it was no longer possible to continue the arrangement of a shared access with Belmont Farm. The application was refused for the following reasons:

1. The proposed vehicular access point out onto the B4235 has not been justified as reasonably necessary to serve New House separate from Belmont Farm and therefore introduces an unnecessary additional conflict point for other road users on the B4235 contrary to the premise of strategic policy S16 and development management policy MV1 of the Monmouthshire Local Development Plan.

2. By virtue of its domestication of the land, the proposed access point and associated trackway is considered to result in an unnecessary and unjustified detrimental visual impact upon its surrounding landscape character contrary to strategic policies S13 and S17 and development management policies LC1, LC5 and DES1 (e) of the Monmouthshire Local Development Plan.

1.2 Since this time further information has been provided in respect of the historical existing access at New House, and how this and other buildings at the site have been served over time. In addition a detailed soft landscaping scheme has now been provided. The merits of both shall be discussed in the ensuing sections of this report.

1.3 The application is presented to Planning Committee as a result of an objection from a statutory consultee, in this instance the Council's Highways Engineer.

2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
DC/2014/01150	Improved visibility vehicular access to New House, close up existing access.	Refused	29.01.2015

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S13 LDP Landscape, Green Infrastructure and the Natural Environment
S16 LDP Transport
S17 LDP Place Making and Design

Development Management Policies

DES1 LDP General Design Considerations
EP1 LDP Amenity and Environmental Protection
MV1 LDP Proposed Developments and Highway Considerations
LC1 LDP New Built Development in the Open Countryside
LC5 LDP Protection and Enhancement of Landscape Character
NE1 LDP Nature Conservation and Development

4.0 REPRESENTATIONS

4.1 Consultation Replies

Llangwm Community Council - Recommend the application is approved.

MCC Highways - It is proposed to create a new vehicular access from New House, Llangwm onto the B4235 and permanently close the existing access.

The application is a resubmission of the same proposals which was refused under application DC/2014/01150.

The Highway Authority maintains its stance in respect of these proposals therefore would reiterate our previous highway comments as below.

New House has a historical vehicular access onto the B4235 at the northeast corner of the site, directly adjacent to an existing barn. The existing access is positioned on the inside bend of the B4235 and because of this together with the barns existing position there is very limited visibility in the eastern direction. As a result the access has been become disused.

The adjacent property, Bellmont Farm, has an existing vehicular access onto the B4235 which is of a good standard with reasonable visibility in both directions. Since the historical access to New House became disused, the property has had the enjoyment of sharing the existing access to Bellmont Farm.

In light of the aforementioned we would not wish to see the creation of an additional access onto the B4235 as it would create an unnecessary additional conflict point for other road users on the B4235. It is therefore recommended that the existing access to Bellmont Farm continues to be utilised by New House.

It is noted from supporting information submitted with the application that New House has no legal right of access over the existing access to Bellmont Farm. However, we would comment that prescriptive rights are likely to have been achieved over the time the access has been used by

New House. In addition we would comment that there is no reason why a legal right of access cannot be granted to New House to remain in perpetuity.

In light of the aforementioned comments we would recommend refusal of the application on highway grounds.

MCC Ecology - Biodiversity Officer - I can confirm that there are no issues associated with dormouse in this instance. However, as dormouse are a European Protected Species (EPS) protected under the Conservation of Habitats and Species Regulations 2010 (as amended) please include the following standard informative on any consent:

Hazel Dormouse - Please note that the hazel dormouse is protected under The Conservation of Species and Habitats Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). This includes protection for individual dormice from killing, injury, capture or disturbance. It is also an offence to damage or destroying breeding sites or resting places even if the animal is not present. If dormice are found during the course of works, all works must cease and the Natural Resources Wales contacted immediately.

Nesting Birds - As the hedgerow provides suitable bird nesting habitat and a large section of hedgerow is to be removed to create a visibility splay (95m) please include the standard bird nesting clearance condition on any consent.

MCC Public Rights of Way - The applicant's attention should be drawn to Footpath No. 59 in the community of Llangwm which runs immediately adjacent to the site of the proposed development. Public Path No. 59 must be kept open and free for use by the public at all times, alternatively, a legal diversion or stopping-up Order must be obtained, confirmed and implemented prior to any development affecting the Public Rights of Way taking place.

No barriers, structures, significant change of level or any other obstructions should be introduced into the legal alignment of the path and any damage to its surface as a result of the development must be made good at the expense of the applicant.

Importantly, unrelated to the proposed development Footpath No. 59 already appears to be unavailable at the site. This is an issue that needs to be resolved. The applicant should contact public Rights of Way.

4.2 Neighbour Notification

One general observation - This seems like a sensible proposal to make access to New House safer. One point I would make is that the application states that no hedges will be affected whereas of course some will be removed to form the new access and the splay.

5.0 EVALUATION

5.1 Highway Safety

5.1.1 With regard to highway safety impact, the proposal is not supported by the Council's highway officers. This is because they consider that an additional access onto the B4235 would create an unnecessary additional conflict point for other road users on the B4235.

The Council's Engineer remains of the opinion that the applicant does have a legal right of way over a different vehicular access to the adjoining Belmont Farm. These two properties have been in separate ownership since 1979, visitors to the previous owner of New House had only used the access to Belmont farm during the latter years of the owner's life when he was in ill health. The legal advice provided by the applicant is that this would not afford the current owners of New House prescriptive rights over the Belmont Farm access. The only vehicular access therefore that is within the ownership of New House would be to the north east of the dwelling on the bend of the B42355 that is tucked behind a converted barn. As such, it is accepted that New House does not have prescriptive rights to the Belmont Farm access, and given the dangerous access set behind the neighbouring barn conversion, a new access would be justified. The existing access is to be closed up, and would be controlled through a planning condition, which would reduce potential points of conflict.

5.1.2 The visibility splays and access details are considered to provide a far safer entrance provision that would meet the requirements of Policy MV1.

5.2 Visual Impact

5.2.1 As detailed in Section 1 of this report, the previous application was refused planning permission in part as the proposed access was considered to have an "unnecessary and unjustified" detrimental impact on the surrounding landscape. For the reasons detailed in the preceding section of this report, it is now considered that on balance a replacement access is justified.

5.2.2 With regard to visual impact, a desktop survey on Landmap has identified the application site as 'having a high visual and sensory landscape characterised by undulating farmland unspoilt by visually intrusive development and picturesque views.' No landscaping details were submitted with the previous application, this has now been provided and a number of trees are to be planted between the track and public highway to mitigate its visual impact. Whilst excavation works would be required at the first bend in the track the remainder would follow the sloping topography of the land. The track itself would be gravelled wheel-tracks that are considered appropriate given the rural context. It is therefore considered that in view of the changes now detailed, including the proposed landscaping which would be required to be implemented by condition, are appropriate to acceptably address the objections to the previous application.

5.3 Biodiversity

5.3.1 As a section of hedgerow is proposed to be removed to create the visibility splay, the Council's Ecologist has requested a condition be imposed to ensure no hedgerow is taken out between 1st March and 31st August (inclusive) unless a detailed assessment has been undertaken and written confirmation received from the Local Planning Authority has been obtained. An advice note is also to be included with regard to hazel dormouse at the request of the Ecology Officer.

5.4 Well-Being of Future Generations (Wales) Act 2015

5.4.1 The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

5.5 Conclusion

5.5.1 In conclusion, it is considered that on balance the reasons for refusal under application DC/2014/01150 have been appropriately considered, and through the submission of further information and amendments to the proposal, have been addressed. The new access is considered to be justified, and subject to the imposition of conditions requiring the closure of the existing access and implementation of the planting scheme, would not cause unacceptable harm to either highway safety or the wider rural landscape.

6.0 RECOMMENDATION: APPROVE

Conditions:

- 1 This development shall be begun within 5 years from the date of this permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

2 The development shall be carried out in accordance with the list of approved plans set out in the table below.

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

3 The existing access to the site as detailed on Drawing No BP2412/01 C shall be closed up in accordance with the approved plans within one month of the proposed access being substantially completed.

REASON: In the interest of Highway Safety.

4 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

REASON: To safeguard the landscape amenities of the area.

5 No removal of hedgerows that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority prior to the removal of any hedgerow and all works shall be carried out in accordance with measures agreed.

REASON: To comply with the provisions of the Wildlife & Countryside Act 1981 (as amended).

INFORMATIVES

1 The applicant is advised that there are public rights of way in the vicinity of the development. The grant of planning permission does not give permission to close, divert or obstruct a public right of way. Obstructing a public right of way is a criminal offence for which you may be prosecuted. You should contact the Public Rights of Way Officer, Monmouthshire County Council (Tel 01633 644860/644862) for advice on procedure should you need to close or divert a public right of way.