

Application Number: DM/2020/00712

Proposal: Retrospective planning permission for altered vehicular access

Address: Field (2140) Weyloed Lane, Mynyddbach, Chepstow, NP16 6BU

Applicant: Mr G. Mustoe

Plans: Location Plan - , Site Layout

RECOMMENDATION: APPROVE

Case Officer: Mrs Helen Hinton

Date Valid: 13.07.2020

This application is presented to Planning Committee following the receipt of public objections and a call in request from the Ward Member with concerns regarding highway safety and policy compliance

1.0 APPLICATION DETAILS

1.1 Site Description

The application site forms part of a 1.5 acre field, laid to pasture positioned to the north-east of Weyloed Lane, on the northern side of Mynyddbach, accessed from the B4235 to the north. The site as a whole is located in an area of open countryside, outside of the defined development boundary of Mynyddbach, within the community of Shirenewton as identified the Proposal Map of the adopted Local Development Plan.

The field is positioned on a gradient that falls from south to north towards the B4235. The boundaries are defined by a combination of fencing, hedges and a number of mature trees. Four of the trees along the southern boundary are protected by tree preservation orders, including an oak tree (ref: OMC: 81/T12) immediately adjacent to the eastern side of the turning area.

The definitive route of public footpath 380/17/1 crosses through part of the site from east to west. A finger post and stile have been installed in the northern boundary of the field.

Details available via Google Street View indicate that the site has historically been accessed by a five bar gate with associated dropped kerbs in the north-western corner of the field.

1.2 Value Added

The scheme has been amended to relocate the proposed gateway further back into the site from the edge of the carriageway to indicate the path of the public right of way and to provide ecological mitigation in the form of additional hedgerow planting along the eastern side of the track.

The latest amended plans also detail the removal of the turning area and 13m of the upper part of the track (i.e. any part of the existing development to the south of the proposed gate).

1.3 Proposal Description

The application seeks retrospective planning permission for the creation and partial retention of a new vehicular access into a field.

As created the track measures approximately 4m wide, 26m long, terminating in a hardstanding turning area at the southern end of the track measuring approximately 13m wide and 11m deep. The track and turning area have been constructed from hard core/ rubble type material. As specified above, the plans have now been amended to indicate that the upper part of the track and turning area will be removed.

The plans detail that the original point of access at the northern end of the track, adjacent to the B4235 will be increased to 5m wide. At the time of inspection, the access was defined by the original gate and newly installed post and barbed-wire fence. It is proposed that a 3.6m wide gate be repositioned 13m into the field with a new post and wire fence and hedgerow provided alongside the eastern side of the access and a new connecting fence provided from the western side of the new gate to the party boundary with Wayside House to the west. A 5m deep solid surface entrance apron (either concrete or tarmac) will be provided adjacent to the rear edge of the B4235 carriageway.

Following discussions the applicant has confirmed that they intend to use the land for the grazing of animals, with daily welfare visits undertaken.

2.0 RELEVANT PLANNING HISTORY (if any)

| Reference Number | Description | Decision | Decision Date |
|------------------|--|-----------------------|---------------|
| DM/2020/00712 | Retrospective planning permission for vehicular access track and turning area. | Pending Determination | |
| DC/2003/00342 | Retention Of Front Garden Wall. | Approved | 10.03.2004 |

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S16 LDP Transport
 S10 LDP Rural Enterprise
 S12 LDP Efficient Resource Use and Flood Risk
 S13 LDP Landscape, Green Infrastructure and the Natural Environment
 S17 LDP Place Making and Design

Development Management Policies

EP1 LDP Amenity and Environmental Protection
 MV1 LDP Proposed Developments and Highway Considerations
 MV3 LDP Public Rights of Way
 DES1 LDP General Design Considerations
 RE3 LDP Agricultural Diversification
 SD4 LDP Sustainable Drainage
 LC1 LDP New Built Development in the Open Countryside
 LC5 LDP Protection and Enhancement of Landscape Character
 GI1 LDP Green Infrastructure
 NE1 LDP Nature Conservation and Development

4.0 NATIONAL PLANNING POLICY

Planning Policy Wales (PPW) Edition 10

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation. A well-functioning planning system is fundamental for sustainable development and achieving sustainable places.

The planning system should create sustainable places which are attractive, sociable, accessible, active, secure, welcoming, healthy and friendly. Development proposals should create the conditions to bring people together, making them want to live, work and play in areas with a sense of place and well-being, creating prosperity for all.

5.0 REPRESENTATIONS

5.1 Consultation Replies

Original plans

Shirenewton Community Council - Recommends the application be refused.

The application does not address the road safety concerns of the neighbours. A highways report should be sought.

The official route of the footpath has not yet been fully defined and there are no proposals as to how the footpath is to be accommodated.

The applicant has failed to acknowledge the relevant tree preservation orders.

The hedgerows removed for construction have not been restored.

MCC Ecology - Objection raised.

The application site is located on a Site of Importance for Nature Conservation, known as Land off Usk Road/Wayside. It was designated for its grassland and hedgerows. Further details with regards to hedgerow removals, extent of buffer to hedgerow, TPO tree and a Preliminary Ecological Assessment that considers the criteria of Policy NE1 and demonstrates how the proposal can provide net benefit should be provided.

MCC Rights of Way Officer - Objection raised.

The applicant's attention should be brought to Public Footpath 17 in the community of Shirenewton. Although the application plan is not very detailed it appears that Footpath 17 would be obstructed by the proposed development.

MCC Tree Officer - The application cannot be supported in its current form,

Whilst no adverse comment is made in relation to the removal of the hedge, concerns are raised about the probable damage to tree roots by the installation of a stone-based turning area close to the trunk of a statutorily protected Oak tree.

Amended plans

MCC Highways - Raise no objections subject to the imposition of conditions.

Rights of Way - Raise no objections subject to the imposition of advisory notes regarding the public right of way.

MCC Tree Officer - Response awaited.

5.2 Neighbour Notification

The application has been advertised by direct neighbour notification, the erection of a site notice and publication of a press notice.

Nine letters of objection have been received and are summarised as follows:

- Close to adjoining properties
- General dislike of proposal
- Inadequate access include the safety of a trailer exiting onto the 40mph B-road and sharp bend; there have been a number of collisions and this access will cause more. There is reduced visibility which is again dangerous. This will be particularly hazardous to cyclists and children
- Inadequate parking provision, in addition parking on the gravel layby will be an obstruction to visibility at the junction creating a hazard
- Increase in traffic, from the proposed development on an already busy road
- Information missing from plans, confusion over the public footpath.
- Not enough information given on the application
- Strain on existing community facilities
- The 5m wide access suggests another function for the site
- Concerns over the impact of the turning circle on the protected trees as the Oak was damaged during recent works which need to be preserved.

5.3 Local Member Representations

The Ward Member, Cllr Brown was notified of the application on 14th July 2020 and has requested the application be presented to Planning Committee with concerns in relation to highway safety and LDP policy compliance.

6.0 EVALUATION

6.1 Strategic & Spatial Choices

6.1.1 Principle of Development

The application seeks retrospective planning permission for the vehicular access track on land to the east of Weyloed Lane Mynyddbach. The latest plans submitted in support of the application indicate that the upper element of the track and turning area are to be removed. The application is therefore the revised access arrangements including the tarmac hardstanding created in front of the gates.

Based on images available via Google Street view, it is apparent that there has been a gate into the field, at the point of the current altered access since at least 2009. Despite this, the alterations to the access are considered to be a new access. Schedule 2, Part 2, Class B of the General Permitted Development Order 1995, grants permitted development rights for 'the formation, laying out and construction of a means of access to a highway which is **not a trunk road or a classified road**'. As the access is onto the B4235 which is a classified road, the access and subsequent tarmac hardstanding requires planning permission.

In areas of open countryside LDP Policy LC1 presumes against new development unless justified under national planning policy and/or other category specific policies. In this instance policies S10 - Rural Enterprise and RE3 - Agricultural Diversification are of relevance.

Following discussions the applicant has advised the works have been undertaken to allow vehicles to access and egress the site in a forward gear in the an attempt to improve the existing highway safety situation. It is intended that visiting vehicles would park on the track, off the highway, and then open the gate, with the potential to take vehicles into the site. It is proposed that any new gateway be positioned 13m to the south of the rear edge of the existing carriageway in order to provide sufficient space to allow a vehicle and towed trailer to stand off the highway whilst the gate is being opened. The applicant intends to use the land for the grazing of animals.

Being mindful that the track has been developed to enhance the functional access to the site by the applicant when checking on animals grazing in the field and to improve the existing highway safety situation, the principle of development is considered compliant with policies S10 and RE3 acceptable in the broadest terms, subject to the application satisfying a number of material planning considerations.

6.1.2 Good Design/ Place making

The track has been developed leading from the original gateway opening, up the field adjacent to part of the western boundary. As a result of the slope of the land and the surface material used, the track is currently visually prominent when viewed from the B4235. However, the development has an appearance similar to many field accesses within the County. As the surface has been finished with rubble/ hard core, it is likely that the weeds and grass will soon establish and grow along parts of the surface and exposed banks creating a twin track appearance that would help reduce the development's visual prominence and help assimilate it into its setting.

Being mindful of the latest site plan which indicates a significant reduction in the development and its positioning relative to the boundary, it is considered that the visual impact created would not be so detrimental to the overall character and appearance of the area to warrant refusal of the application on such grounds. The application is therefore considered compliant with LDP policies S13, S17, LC1, LC5, EP1 and DES1.

6.1.3 Impact on Amenity/ Promoting Healthier Places

Although located in an area of open countryside there are residential properties to the west, south and north of the site. Irrespective of the current application, if the field were in use for the grazing of animals the applicant would still need to conduct daily welfare visits. Although the development would enhance access to the field, it is considered that its use would not lead to an increased level of noise disturbance, disruption, increased overlooking or loss of privacy relative to the original arrangement, significantly detrimental to the residential amenity of those living closest to the site. The application is therefore considered compliant with LDP policies S13 and EP1.

6.2 Active and Social Places

6.2.1 Transport - sustainable transport issues

The application site is located in an area of open countryside beyond the development boundary of Mynyddbach. Although there is a bus service in the area, the application seeks consent for alterations to the existing access to enhance functional operation of the site. It is highly likely that the site will be accessed by private vehicle.

6.2.2 Access / Highway Safety

Issues with regard to access and highway safety arising from the use of the development are a principal concern for the Community Council and public objectors.

The site is positioned on the southern side of the B4235, immediately to the east of the junction of Weyloed Lane and opposite three residential driveways. The B4235 is extensively used and is subject to a 40mph speed limit as it passes the site with solid white lines along the centre. As a result of its location in association with the alignment of the highway, visibility from the splays either side of the application site and the junction of Weyloed Lane are reduced.

As part of their consultation responses members of the public have raised concerns that the works would exacerbate the existing highway safety situation, encourage use of the site by large and slow moving vehicles and may further reduce visibility for users of the Weyloed Lane junction.

In response to the above, it must be identified that prior to any works taking place, the field did benefit from a gated access with dropped kerbs in the northern boundary, directly adjacent to the

highway verge of the Weyloed Lane junction. Whilst information available via Google street view indicates the gateway during 2009, it is likely that it has been in place for longer. The landowner was therefore able to use the gateway for an unlimited number of trips with any type or size of vehicle without further reference to the Council. Given the close position of the gate relative to the highway and its limited width, it is likely that visiting vehicles would have stopped on the road or highway verge whilst the gate was opened, with the potential for larger or towed vehicles having to swing out into the opposite carriage way in order to undertake the manoeuvre. Alternatively, visiting vehicles would have remained parked on the verge which forms part of the visibility splay of the Weyloed Lane junction.

The key consideration with regards to highway safety must be whether the works undertaken would exacerbate the original highway safety situation to such an extent to warrant refusal of the application. If the current application is refused any enforcement action could only seek to have the land and gateway returned/ reinstated to their original form, i.e. with the access gate on the rear edge of the highway verge

Although objectors to the scheme have raised concerns about future uses of the site, at this time no change of use is proposed with the applicant clarifying that he intends to use the land for grazing. Any future application for planning permission on the site would need to assess whether the proposal would generate an increased number of vehicle movements, detrimental to the highway safety and free flow of traffic.

Based on the plans submitted, it is proposed that the width of the point of access be increased to 5m; that a 5m deep solid surface entrance apron be provided leading from the existing dropped kerb onto the track and a 3.6m wide gate be provided 13m back from the rear edge of the carriageway. Vehicles accessing the site would wait on the track and/ or pass through the gate to park within the field. It is considered that the opportunity to remove waiting vehicles from the highway, highway verge and the visibility splay of the Weyloed Lane junction is to the benefit of the safety of access and highway users.

Following consultation the Council's Highways department provided the following comments:

"The application site is an existing field, which has an existing gated vehicular access onto the B4235 at the western corner of the site adjacent to Weyloed Lane. The access in its original form consisted of a dropped kerb vehicular crossing with a field gate set back approximately 4.3m from the carriageway edge. The vehicular crossing between the carriageway edge and gate was grassed verge.

The works carried out on site consist of the construction of a compacted loose stone access track and turning area. The highway verge vehicular crossing between the carriageway and field gate has also been constructed of compacted loose stone.

Whilst the Highway Authority welcome improvements to a substandard highway verge vehicular crossing we do not support the use of compacted loose stone for verge crossings based on the potential for loose material being brought out onto the public highway. To prevent this a vehicular access should have a hard surface of concrete or bituminous material for a minimum distance of 5m from the edge of carriageway.

The Highway Authority has liaised with the Applicant through the planning process with a view to improving the existing access. It was advised that a minimum of 5m of hard surfaced material be provided from the edge of the carriageway and that the gates be set back a minimum 12m from the edge of carriageway so that vehicles serving the site are positioned off the highway when opening/closing the gate.

In response to the above, the Applicant has submitted a revised drawing that demonstrates that the first 5m from the carriageway edge will be constructed of bituminous material to prevent loose material being brought out onto the highway. In addition, it is demonstrated that the field gate will be set back 13m from the carriageway edge so that vehicles serving the site can be positioned off the highway. It is noted from the revised drawing that the turning area has now been removed however

it should be noted that it is not a specific highway requirement to have a dedicated turning area within the field, as there is already ample space within the field for turning a vehicle.

In light of the above amendments the Highway Authority have no grounds to object to the application as the proposals demonstrate a considerable improvement to the access over its original form.

Although a stile and finger post have been installed in the northern boundary of the field, approximately 20m to the north-east of the point of access, the definitive and legal route of public footpath 380/17/1 passes through the residential curtilage of Wayside House, Weyloed Lane, to the west and crosses the track and wider field from west east. Issues with regards to how the development would affect the route of the right of way has been raised by an objector.

Following review of the initial statutory consultation responses, amended plans have been received indicating the definitive route of the right of way which would remain unobstructed. The applicant has also identified that they would prefer the path to follow the definitive route rather than the one indicated by the finger post. Following review of the amended plans the Council's Rights of Way Officer has raised no objection to the application, subject to the imposition of advisory notes relating to the route of the path being maintained clear of obstruction.

On the basis of the above and subject to conditions, the application is considered compliant with LDP policies S16, MV1 and MV3.

6.3 Productive and Enterprising Places

6.3.1 Transportation Infrastructure

The application site accommodates an original gateway and dropped kerb adjacent to the B4235. Although the application would widen the point of access, alter the highway verge and may widen the dropped kerb, which will need require further consent from the Council's Highways Department, it is considered that the development would not detrimentally impact with wider transportation infrastructure.

6.4 Distinctive & Natural Places

6.4.1 Landscape/ Visual Impact

The site is outside the boundary of the Area of Outstanding Natural Beauty,

As a result of the field's topography, which falls down towards the road, the development is visually prominent. However, it is considered that the surface and edges of the track will soften with use and the re-establishment of plants along the cut edges. Given the reduced scale of the development now proposed, in conjunction with its close position relative to the boundary with Wayside House, it is considered that the development does not have a detrimental impact on the overall character and appearance of the area.

6.4.2 Green Infrastructure

The widening of the gateway, has resulted in the removal of a section of hedge along the northern boundary of the site. During discussions the applicant has advised that the section removed contained briars and brambles, rather than an established hedge that is prevalent alongside the B4235. Details available via street view indicate that the northern boundary of the field is largely defined by post and chain link fencing with isolated pockets of brambles, self-seeded trees and smaller climbing plants. As part of the amended plans it is proposed that a new section of hedge be planted adjacent to the eastern side of the track in compensation.

Two of the trees in the southern part of the site are protected by Tree Preservation Orders - an oak OMC:81/T12 and a Sycamore OMC:81/T13. The hardstanding area has been developed under the canopy and within the root projection zone of the oak tree. As part of the public consultation process,

concerns have been raised that the oak tree was damaged during the construction works. This matter has been referred to the Council Tree Protection Officer for further investigation.

Following review of the original plans the Council's Tree Officer has advised that he was unable support this application, with concerns raised about the probable damage on tree roots by the installation. It was therefore recommended that the scheme be amended to either remove the turning area from beneath the canopy or install an engineered load-bearing surface within the crown spread.

Following review of the Tree Officer's comments, the applicant has chosen to remove the turning area and upper element of the track. Although revised comments are awaited from the Tree Officer, it is considered that such alterations overcome the previous objection, subject to the removal works under the canopy being undertaken by hand (as opposed to mechanical removal) and in accordance with approved details.

On the basis of the above and subject to conditions to remove the turning area and upper track and to secure and retain the new hedge, it is considered that the application would not have detrimental impact on the green infrastructure provision of the site and is compliant with LDP policies S13 and GI1 of the LDP.

6.4.3 Biodiversity

Following consultation the Council's Ecologist has confirmed that the site is within a Site of Importance for Nature Conservation (SINC), known as Land off Usk Road/Wayside, it was designated for its grassland and hedgerows. An objection is raised on the basis that there is no acknowledgement of the site's protected status or ecological assessment to inform the proposals. However, as specified above the works are retrospective and it is therefore no longer possible for the applicant to provide an ecological appraisal of the affected area. Being mindful of the reduced area of the development now proposed, the retention of the wider field for grazing purposes and the provision of new hedgerow to compensate for the area of planting lost adjacent to the original gateway which should also act as ecological mitigation and enhancement, it is considered that the development is not so detrimental to the overall ecological value of the wider site and SINC to warrant refusal of the application.

6.4.4 Surface water drainage

As the reduced area of the development is less than 100sq.m in area, there is no requirements for the applicant to provide on-site sustainable drainage. Measures to prevent surface water runoff onto the highway will be considered as part of the separate Highway agreement for alterations to the highway verge.

6.5 Response to the Representations of Third Parties and the Community Council

Following direct neighbour notification, the erection of a site notice and publication of a press notice, nine letters of objection have been received. These have been addressed above and are not repeated.

It is noted that one objector has raised concerns that the applicant has encroached on land in their ownership. As part of the application, the applicant has completed landownership Certificate A specifying that they are the owner of all the land affected by the proposal. Issues with regards to encroachment and land ownership are a private legal matter within which the Council cannot become involved.

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

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.

6.7 Conclusion

Although currently visible, it is considered that the development will soften and assimilate into its surroundings and the works will help to improve highway safety for users of the access and the adjacent Weyloed Lane junction by removing parked or waiting cars from the carriageway, highway verge and/ or visibility splay of the junction. It is also considered that the development would not have a detrimental impact on the residential amenity of those living closest and subject to conditions will provide enhanced hedgerow landscaping to the benefit of the ecological and green infrastructure value of the site.

On the basis of the above report the application is recommended for approval subject to conditions.

7.0 RECOMMENDATION: APPROVE

Conditions:

1 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.

2 Within six months of the date of this consent, the turning area and the adjoining 13m of track, within the southern part of the site, shall be removed from site and the land reclaimed and restored to its original form, in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Works to remove the hard core from under the tree canopy shall only be undertaken by hand and not by mechanical extraction. The development shall only proceed in accordance with the approved details.

REASON: To ensure compliance with the approved plans, in the interests of the visual amenity and the ecological value of the site in accordance with LDP policies S13, S17, NE1 and EP1.

3 Within six months of the date of this permission, details of the proposed hedgerow to be provided along the eastern side of the track shall be submitted to and approved in writing by the Local Planning Authority. The details shall specify the proposed planting form, plant name, size, quantity, percentage mix and planting distances. The development shall only proceed in accordance with the approved details.

REASON: To safeguard the landscape amenities of the area and to ensure compliance with LDP Policy G11.

4 All planting and seeding comprised in the approved details of landscaping and land restoration works shall be carried out in the first planting and seeding season following the removal of the track and turning area. Any hedging 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 and to ensure compliance with LDP Policy G11.

5 The proposed access shall have a hard surface of concrete or bituminous material for a minimum distance of 5m from the highway boundary.

REASON: To prevent the carriage of loose material onto the highway network, in the interests of highway safety, in compliance with LDP policies S16 and MV1.

