

**Application Number:** DM/2024/01294

**Proposal:** The retention of retaining wall and terrace/patio (as built) and change of use of agricultural land to residential curtilage

**Address:** Ty'r Berllan, Llangwm To Nantygelli Farm, Llangwm, Monmouthshire, NP15 1HB

**Applicant:** Mr Gavin Gerrish

**Plans:** All Drawings/Plans PP01 A - , All Existing Plans 1727 - , Drainage DRAINAGE STATEMENT - , 'Existing and Proposed Site Block Plan' by Griffiths Design. Green Infrastructure Statement & Landscaping Plan

## **RECOMMENDATION: APPROVE**

Case Officer: Ms Kate Bingham  
Date Valid: 17.10.2024

**This application is presented to Planning Committee due to five or more objections being received**

### **1.0 APPLICATION DETAILS**

#### 1.1 Site Description

This application relates to a dwelling known as Ty'r Berllan which lies in a rural location to the east of the village of Llangwm 5 miles south of Usk.

The site is not within a flood plain nor is it within a Conservation Area or an AONB. It is however located within the Nutrient Sensitive Catchment Area of the River Usk Special Area of Conservation (SAC).

#### 1.2 Value Added

Description of development changed to include works to a patio and retaining wall and additional surface water drainage details provided.

#### 1.3 Proposal Description

This retrospective planning application is for a change of use of 360sqm of agricultural land to residential curtilage associated with Ty'r Berllan together with the retention of a patio and retaining wall which have not been built in accordance with previous approval reference DM/2023/00795.

The new extended garden curtilage is to be enclosed with a post and rail fence to denote the boundary between residential curtilage and agricultural land. The land will remain as grass with the remaining land retained for agricultural purposes.

### **2.0 RELEVANT PLANNING HISTORY (if any)**

<b>Reference Number</b>	<b>Description</b>	<b>Decision</b>	<b>Decision Date</b>
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DM/2020/01504	Demolition of existing single storey side extension replaced with proposed two storey side extension.	Approved	09.03.2021
DM/2022/01237	Non Material Amendment to planning decision DM/2020/01504: 1). To include a small Dormer where the original Velux window was situated. 2). To square off the ground floor plan at the rear of the property.	Approved	04.10.2022
DM/2023/00795	The proposal involves the building of a retaining wall at the rear of the property to allow a level surface for safe access into and out of the house. The level surface will contain a small patio area and the rest will be grassed as per the submitted drawings. There will be steps built at the back to allow a safe point of access. Railings will be installed around the perimeter, on top of the wall to ensure area is safe and secure.	Approved	20.09.2023
DC/2012/00518	Breach of condition 5 of planning permission A31210 (Certificate of Lawfulness to demonstrate failure to comply with an agricultural occupancy condition)	Approved	24.08.2012
DC/2014/01163	Removal of condition 5 from previous application ref A26974	Approved	23.06.2015
M07244	New Double Garage.	Approved	18.07.2002
31210	New Agricultural Dwelling.	Approved	14.08.1989

### **3.0 LOCAL DEVELOPMENT PLAN POLICIES**

#### **Strategic Policies**

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**

DES1 LDP General Design Considerations  
EP1 LDP Amenity and Environmental Protection  
SD4 LDP Sustainable Drainage  
NE1 LDP Nature Conservation and Development  
GI1 LDP Green Infrastructure  
LC5 LDP Protection and Enhancement of Landscape Character

## **4.0 NATIONAL PLANNING POLICY**

### **Future Wales - the national plan 2040**

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales - the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

### **Planning Policy Wales (PPW) Edition 12**

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 of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

## **5.0 REPRESENTATIONS**

### 5.1 Consultation Replies

**Llangwm Community Council** – No comments received to date.

**MCC Biodiversity** - No objections subject to condition securing net gain for biodiversity.

**MCC SAB** - No objection. Development will require SAB Consent.

The application has demonstrated that discharge of surface water to infiltration trenches is viable. In order to ensure surface water does not leave the site down the steep slope to neighbouring properties, it should be ensured that all weep holes from the retaining wall are picked up by the proposed pipe and trench drainage strategy. Furthermore, hedge planting to the boundary should provide a buffer to any overland flows and could be supplemented by rough sedges/grasses. (include as an Informative on any consent)

**MCC Lead Local Flood Authority** - No objection.

Flood risk maps provided by Natural Resources Wales do not indicate the site to be at particular risk of flooding. Our database of historic flood events does contain records of surface water flooding in close proximity to the site which could be exacerbated by development in this location. The proposed drainage strategy will mitigate against any potential issues. Our database of drainage and flood assets does not contain records of drainage or flood assets in close proximity to the site which may be impacted by the development.

**MCC Building Control** - Confirm that Building Control would have no objections to this work and as external works, it would not require an application for building regulation approval.

I would make the suggestion that the newly formed raised area should be subject to some protection from a fall to the lower ground. It is clearly over the height of 600mm, at which protection from a fall would be advised. The retaining wall would need to be deemed a suitable construction to retain the ground and also would need to incorporate a suitable method of surface water disposal. Also I would comment that the steps should be well designed with equal and suitable rise and tread and the incorporation of a handrail would be sensible.

**MCC Heritage** – No comments received to date.

**SEWBRc Search Results** - No significant ecological record identified.

## 5.2 Neighbour Notification

Nine representations received objecting to the application on the following grounds:

### *Surface Water*

- We are highly concerned to understand what SUDS actions are required for this development and whether it has been properly and correctly assessed against SUDS requirements.
- The consequences of drainage and potential pollution from this development, both now and in the future as the development continues to expand, is not apparent from the documentation and may not be apparent to the Planning Committee without their diligent scrutiny of the scheme in its entirety.
- The application should be accompanied by the relevant SuDS and Building Regulations evidence necessary to demonstrate that it will not cause either nuisance or environmental harm either to the neighbouring property or to the stream that passes close to my property at Geryllan.
- There are three septic tanks affected by the run-off i.e. Ty'r Berllan, Owls Barn and Pwll. Concerned that the surface water run-off will result in pollution of the adjacent ground and also the water courses which run through Pwll Farm.
- The consequences of drainage and potential pollution from this development, both now and in the future as the development continues to expand, is not apparent from the documentation and may not be apparent to the Planning Committee without their diligent scrutiny of the scheme in its entirety.
- Concern that the Hydrogeo Assessment is silent on impacts on existing infrastructure in Ty'r Berllan. In particular, the detailed Building Regulation drawings (by CMB Design & Build Ltd.) for the Ty'r Berllan house extension approved under DM/2022/01237 gave no details as to where the roof rainwater was to be disposed of, and no details as to the sewer pipe to the septic tank.
- The layout of the existing pipe network should be included in Hydrogeo's Assessment, together with details of where the existing soakaways/drainage fields are, and details of how the retaining wall has been constructed so as not to damage the pipes.  
A water supply pipe traverses the Ty'r Berllan field, and there is a former well/spring in the field; the Hydrogeo Assessment needs to state how the new rainwater drain will interact with the existing infrastructure.

### *Visual Impact*

- Spoils the view of the lovely old Pwll Farm - now overlooked and spoilt.
- The new house at Ty'r Berllan is already far too large. Adding a huge terrace will further damage our beautiful countryside.
- Loss of agricultural land is always a concern.
- The scale of the new patio and the combined run-off of surface water from it and the drive directed towards Pwll Farm is significant.
- I am not in agreement for the retaining wall and its change of use of 360sqm of agricultural land to residential curtilage.
- We are very concerned that the continuous development of this property, without the openness to planning intentions, has been shrouded in obfuscation.

Four representations received in support of the application:

- The planning application needs to be put into perspective, it's a small patio and raised grass area at the back of the property. When the planned hedgerows have been planted there will be a large biodiversity enhancement and full natural screening provided to the neighbouring properties.
- Significant surface water run-off from the small patio/raised grass area hasn't been backed up with any significant evidence.
- It's great to see a family trying to improve, modernise and reduce the environmental footprint of their property.
- There is no clear evidence of any large surface water run-off. The soil in and around the area of Llangwm is designated free draining.
- The retaining wall is very small in scale when comparing it to others in the area. Due to the topology of the land, retaining walls are very common in and around Llangwm to create a level and safe access into the properties.
- I anticipate there are far bigger polluters than a small family home with a new small, raised patio/grass area.
- Changing a small area of agricultural land into residential, including the planting of hedgerows, will be a positive change and enhance the ecological footprint of Ty'r Berllan.
- It would be dangerous not to have a patio at the back of this property due to the fall of the land.
- Building regulations state you require a landing after an entrance before a ramp or stairs. This patio is in proportion to the house and its extension, it is the obvious solution to complete this build.
- Comments suggesting privacy will be lost are relevant, but this works both ways, and a solution has already been mentioned, so I feel this has no bearing on the decision.
- It is a short term issue for a long term structure, if we always used factors like this to make decisions nothing would ever progress.
- Suggestions of the water ways being polluted from this patio are very inaccurate, this will not be the case.
- One look on digital maps will show you the main potential source of water pollution at this location would be farm effluent, which I'm sure is already closely monitored and would still not be a concern with the large run off area the water has.
- There is no evidence that Ty'r Berllan's patio will cause any environmental issues to the brook below as run off rain water will soak away in the field as it already does now.
- The retaining wall and patio is in proportion to the much improved house and once a hedge has been planted there will be privacy from neighbouring properties.
- The request to approve a patio and retaining wall to complete the renovation project is not unreasonable.

### 5.3 Other Representations

None.

### 5.4 Local Member Representations

County Councillor – No comments received to date.

## **6.0 EVALUATION**

### **6.1 Principle of Development**

6.1.1 The site is not within any settlement and is therefore considered to be open countryside. The proposed extension to a residential curtilage and works undertaken to create a patio and retaining wall are acceptable in principle subject to detailed planning considerations seeking to protect the landscape, residential amenity and biodiversity and the provision of suitable surface water drainage.

## **6.2 Good Design/ Place making**

6.2.1 The proposal seeks to regularise a level patio and grassed area. The approved patio projected 5m from the rear elevation of the dwelling. This has been extended to 6.2m (as scaled from the submitted drawing) curving and returning to the property side elevations. The patio will extend into curtilage land that falls away from the house requiring a retaining wall to create a level surface. The wall is 1.4m in height extending the length of the rear of the property and wrapping along the south-eastern (side) elevation. The retaining wall is to be of rendered block to match the dwelling. The retaining wall would include steps to access land aligned with the rear door to the property and a low parapet railing fence, scaled on plan, at 0.4m. The proposed garden area then extends a further 4.2m.

6.1.3 Ty'r Berllan is a domestic two storey modern dwelling, therefore in this context a patio (which is a domestic feature) and garden area is considered to be in keeping with the site. The size of the patio and garden are considered proportionate to the dwelling. A post and rail fence will be erected to separate the garden area from the adjacent agricultural land. This type of enclosure is typically used to retain stock and is appropriate in this rural setting.

6.1.2 On the basis of the above, it is considered that the development will not have an adverse impact on the valued Monmouthshire landscape at a localised and wider scale. The scale of development in the context of the property and land holding is not disproportionate and is considered to adhere with the relevant criteria of policies DES1, H6 and EP1.

## **6.2 Historic Environment**

6.2.1 There is a nearby listed building, Pwll Farm (CADW ref - 24121) which is located approximately 40m to the east of Ty'r Berllan. There is a dwelling that sits between Pwll Farm and Ty'r Berllan, and given this context it is not considered that the works proposed would lead to adverse impacts on this listed building or its setting.

## **6.3 Impact on Residential Amenity**

6.3.1 Existing neighbouring dwellings known as Owl Barn and Pwll Farm lie to the west of the application site. It is noted that patio area may provide elevated views across adjacent properties however these views are not considered to cause an impact that is unacceptable due to the existing topography of the land. Ty'r Berllan is set at a higher level than the dwellings to the south-east and as such there is already a degree of overlooking. The patio will not significantly increase this.

6.3.2 It should also be noted that the applicant has indicated additional planting to the south-eastern boundary which will lessen any overlooking impact. As suggested on behalf of a neighbouring occupier, it would be reasonable to include a condition on any planning approval that Members are minded to grant, such that the area covered by paving cannot be increased, and that the boundary hedge will be maintained at a 3 metre height; less than this would not prevent overlooking of Pwll Farm from the terrace, and more than this might be overbearing for the occupants of Owl Barn.

6.3.3 On the basis of the above, the proposal is considered to comply with policies DES1 and EP1.

## **6.4 Access / Highway Safety**

6.4.1 There are no highway implications as a result of this change of use. There will be no loss of parking as a result of the change of use.

## **6.5 Green Infrastructure**

6.5.1 Chapter 6 of Planning Policy Wales (PPW) 12 highlights that a Green Infrastructure (GI) statement should be submitted with all planning applications and will be proportionate to the scale and nature of the development. The statement which will need to be informed by a GI assessment of the site will describe how green infrastructure will be incorporated into the proposal and how the step wise approach to protecting biodiversity, habitats and GI onsite will be managed. A step wise approach considers what impacts may occur as a result of development activity to any identified biodiversity, habitats and green infrastructure assets and networks that may be present on or bounding a site. The approach then seeks to manage any harm that may occur by (a) avoiding (b) minimising (c) mitigation / restoration.

6.5.2 The GI Statement submitted as part of the application provides that the land to be used as garden will remain under grass, and will undergo regular mowing to keep the sward height low. The agricultural land to the north is also within the applicant's ownership and will be retained for agricultural purposes. New hedging will be planted on the south-eastern boundary, the eastern corner and the northern corner of the site.

6.5.3 It is considered that impacts of the development on the GI assets will be minimal and new hedge planting will result in an overall enhancement of GI at the site. The development therefore accords with PPW12 and LDP Policy GI1.

## **6.6 Biodiversity**

6.6.1 The existing agricultural land comprises short semi-improved grassland considered unlikely to offer more than low biodiversity value. After the change of use, the garden will be retained as grassland managed as part of the residential curtilage of the site.

6.6.2 Planning Policy Wales (PPW) 12 sets out that "planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity" (para 6.4.5 refers). This policy and subsequent policies in Chapter 6 of PPW 12 respond to the Section 6 Duty of the Environment (Wales) Act 2016.

6.6.3 It is proposed that native hedgerow planting is undertaken on the south-eastern boundary and the northern/ eastern corners of the site. The submitted Green Infrastructure Statement details acceptable management of the hedgerow. The 'Existing and Proposed Site Block Plan' by Griffiths Design also details the provision of bat and bird boxes on site. These can be secured via condition should Members be minded to approve the application. Therefore it is agreed that the proposals will provide an overall net benefit for biodiversity in line with PPW 12.

6.6.4 Under the Habitats Regulations, where a plan or project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, and where it is not directly connected with or necessary to the management of the site, the competent authority must carry out an appropriate assessment of the implication of the plan or project in view of the site's conservation objectives. Natural Resources Wales has set new nutrient standards for the river SACs in Wales. Any proposed development within the SAC catchments that might increase the amount of nutrient within the catchment could lead to additional damaging effects to the SAC features and therefore such proposals must be screened through a HRA to determine whether they are likely to have a significant effect on the SAC condition.

6.6.5 This application has been screened in accordance with Natural Resources Wales' advice for planning applications within the river Special Areas of Conservation (SACs) catchments (v4 issued 28th June 2024). It is considered that this development is unlikely to increase nutrient inputs because the development does not increase the volume and concentration of nutrients in wastewater.

## **6.7 Surface Water Drainage**

6.7.1 The total development area is over 100m<sup>2</sup> so SAB consent will be required. However, the surface water drainage of the patio area still needs to be demonstrated to not increase flood risk to

neighbouring properties at the planning application stage. As such a Drainage Strategy has been prepared by consultants, Hydrogeo, in support of the application.

6.7.2 Hydrogeo attended the site on the 24th February 2025 to undertake soakaway testing in accordance with BRE Digest 365 guidance. Taking the slowest of the design infiltration rates, attenuation calculations have been undertaken for the only impermeable contributing area proposed as part of the development at the retaining wall to the rear of the dwelling: 68m<sup>2</sup>.

6.7.3 Two linked shallow parallel infiltration trenches are proposed to be installed perpendicular to the slope of the land, to the north of the dwelling. Runoff from the proposed patio and steps will be collected in slot drains / threshold drains and conveyed to the two infiltration trenches in a pipe network. The two infiltration trenches will then be linked by a pipe and water will be dispersed through each trench by a perforated pipe.

6.7.4 Attenuation calculations indicate that sufficient storage has been provided for a 1 in 100 year rainfall event, including 40% climate change and 10% urban creep. The half drain down time for each trench is 671 minutes. The Council's Drainage Engineers have confirmed that the application has demonstrated that discharge of surface water to infiltration trenches is viable.

6.7.5 In order to ensure surface water does not leave the site down the steep slope to neighbouring properties, it should be ensured that all weep holes from the retaining wall are picked up by the proposed pipe and trench drainage strategy. Hedge planting to the boundary will provide a buffer to any overland flows and could be supplemented by rough sedges/grasses. These details can be secured as part of the SAB consent.

## **6.8 Response to the Representations of Third Parties and/or Community/Town Council**

6.8.1 It has been noted that the detailed Building Regulation drawings (by CMB Design & Build Ltd.) for the Ty'r Berllan house extension approved under DM/2022/01237 gave no details as to where the roof rainwater was to be disposed of, and no details as to the sewer pipe to the septic tank. The existing extension is not part of this planning application and therefore it would be unreasonable to require these details to be provided at this stage.

6.8.2 Other concerns regarding surface water drainage and visual impact have been addressed above in this report.

## **6.8 Well-Being of Future Generations (Wales) Act 2015**

6.8.1 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.

## **6.9 Conclusion**

6.9.1 The change of use will not adversely affect the character of the rural area, nearby heritage assets, or the local landscape.

6.9.2 The proposal includes new hedge planting, which will enhance biodiversity and provide natural screening.

6.9.3 The Council's Drainage Engineers have confirmed that the application has demonstrated that discharge of surface water to infiltration trenches is viable. As such, the development will not adversely affect the amenity of any neighbouring occupiers as a result of increased risk of run-off flooding.



## **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 The hedge along the southeastern boundary shall be maintained at a height of 3m in perpetuity.

REASON: In the interests of residential amenity, in accordance with LDP Policy EP1.

3 The mitigation and enhancements for biodiversity shown on approved drwg 'Existing and Proposed Site Block Plan' by Griffiths Design shall be provided in full within 3 months of the date of this decision and shall be maintained as such thereafter.

Evidence of compliance with the plan in the form of georeferenced photographs must be provided to the Local Planning Authority no more than three months later than the first beneficial use of the development.

REASON: In the interests of the ecological and biodiversity value of the site and to ensure compliance with PPW 12, the Environment (Wales) Act 2016 and LDP policies S13, and NE1.

4 Notwithstanding the provisions of Article 3, Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development)(Amendment)(Wales) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no fence, wall or other means of enclosure other than any approved under this permission shall be erected or placed without the prior written approval of the Local Planning Authority.

REASON: In the interests of visual amenity and to safeguard the appearance of the area and to ensure compliance with LDP Policy DES1.

5 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes E & F of the Town and Country Planning (General Permitted Development)(Amendment)(Wales) Order 2013 (or any Order revoking and re-enacting that Order with or without modification) no outbuildings shall be erected and no hard surfaces shall be provided.

REASON: In the interests of visual amenity and to safeguard the appearance of the area and to ensure compliance with LDP Policy DES1..

### **INFORMATIVES**

1 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

2 As of 7th January 2019, all construction work in Wales with drainage implications, of 100m<sup>2</sup> or more, is now required to have Sustainable Drainage Systems (SuDS) to manage on-site surface water (whether they require planning permission or not). These SuDS must be designed and constructed in accordance with the Welsh Government Standards for Sustainable Drainage.

The SuDS Approving Body (SAB) is a service delivered by the Local Authority to ensure that drainage proposals for all new developments of at least 2 properties OR over 100m<sup>2</sup> of construction area are fit for purpose, designed and built in accordance with the National Standards for Sustainable Drainage published by Welsh Ministers.

If you are in any doubt as to whether you require SAB approval, please contact:

SAB@monmouthshire.gov.uk

For advice regarding the application process and general enquiries - 01495 768306

For technical advice regarding your SuDS design and meeting the National Standards - 01633 644730

3 The application has demonstrated that discharge of surface water to infiltration trenches is viable. In order to ensure surface water does not leave the site down the steep slope to neighbouring properties, it should be ensured that all weep holes from the retaining wall are picked up by the proposed pipe and trench drainage strategy. Furthermore, hedge planting to the boundary should provide a buffer to any overland flows and could be supplemented by rough sedges/grasses.