

Delegated Decision Report

Application No:	25/0061	Statutory Period Expires:	13th June 2025
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Site:	<i>Land North West of and Adjacent to Homelands Pen-Y-Worlod Road Newport NP26 3AJ</i>		
Proposal:	<i>RETROSPECTIVE APPLICATION FOR RETENTION OF NEW ACCESS, CREATION OF TRACK AND INSTALLATION OF GATES AND FENCES AFFECTING PUBLIC RIGHT OF WAY 402/4/1</i>		
Applicant:	<i>M Thomas</i>		
Type:	Full	Ward:	Bishton And Langstone
Decision:	REFUSED		

1. BACKGROUND

- 1.1 By way of background the applicant has advised that they previously owned the property to the south known as Homelands which is understood to operate as a residential care home. Homelands was sold by the applicant, however, they retained the parcel of land subject to this application. As the parcel of land had no separate access, the new access that forms part of this application was created. The site contains an existing building.

2. SITE LOCATION AND CONTEXT

- 2.1 The site is located along Pen-Y-Worlod Road, a narrow single width lane with high hedgerow cover. It is set within the countryside as well as the Wentwood Special Landscape Area. A public right of way runs to the north of the site. Adjacent to the new access there is an existing access to a field which includes part of the PROW. To the south of the site is a property known as Homelands. The site is lined with hedgerow however, to the south, a fence separates the land from the property known as Homelands.

In terms of the use of the land, the applicant advises in their covering letter that 'the site contains a stable building, which was at times used to store equipment associated with Homelands. Recently, the stable was used temporarily to store personal items but the applicant intends on using the land to graze a horse/horses and hopes to reutilise the stable.' The application is therefore unclear on the use of the site. However, whilst there is no site history for this parcel of land other than it being attached to Homelands, for the purpose of this application it is considered that the lawful use of the land is agricultural.

3. DESCRIPTION OF DEVELOPMENT

- 3.1 An access has been created from Pen-Y-Worlod Road which involved the removal of a section of hedgerow as well as the removal of material from the site to provide a level access way. No information to confirm previous and current sections or the amount of earth that has been removed or regraded on site has been provided.
- 3.2 A track and associated turning area are also proposed. The covering letter submitted with the application advises that the track has not yet been constructed however from the officer's site visit, these works appear to have started and whilst they aren't completed there is some form of track formed from the access to the building at the south of the site. Both the track and turning area would be finished in stone. In front of the proposed gates, a 6m length of tarmac is proposed at the access where it meets the road. In order to achieve visibility splays to the south, a section of hedge is proposed to be translocated.

- 3.3 The insertion of a gate and associated fencing are also proposed. They would consist of 1.8m high metal mesh fencing and gates that would extend for a total of 20.5m. The design is typical of those seen at school grounds for example. In part the fencing would abut the road and then splay towards the gate and then continue from the gates to the north boundary of the site. The gates would be set back 6m from the road.

4. RELEVANT SITE HISTORY

24/0217	S73 APPLICATION TO VARY CONDITION 1 (APPROVED USE RESTRICTION) OF 07/0238 REBUILDING OF EXISTING BUNGALOW, TOGETHER WITH EXTENSION TO PROVIDE COMMUNITY CARE HOME (USE CLASS C2)	GRANTED WITH CONDITIONS
07/0238	REBUILDING OF EXISTING BUNGALOW, TOGETHER WITH EXTENSION TO PROVIDE RESIDENTIAL COMMUNITY CARE HOME (USE CLASS C2)	GRANTED WITH CONDITIONS

5. PLANNING POLICY

5.1 The National Development Framework: Future Wales - the National Plan 2040

Future Wales sets out the Welsh Government's land use priorities and provides a national land use framework for SDPs and LDPs. Future Wales concentrates on development and land use issues of national significance, indicating areas of major opportunities and change, highlighting areas that need protecting and enhancing and helping to co-ordinate the delivery of Welsh Government policies to maximise positive outcomes.

Policy 1 - Where Wales Will Grow

Policy 2 - Shaping Urban Growth and Regeneration - Strategic Placemaking

Policy 9 - Resilient Ecological Networks and Green Infrastructure

5.2 Planning Policy Wales (Edition 12) 2024

3.3 - Good design is fundamental to creating sustainable places where people want to live, work and socialise.

3.4 - Meeting the objectives of good design should be the aim of all those involved in the development process and should be applied to all development proposals at all scales.

5.3 Newport Local Development Plan (2011-2026)

- SP5 (Countryside)
- SP8 (Special Landscape Areas)
- SP9 (Conservation of the Natural, Historic and Built Environment)
- GP4 (Highways and Accessibility)
- GP5 (Natural Environment)
- GP6 (Quality of Design)
- M1 (Safeguarding of Mineral Resource)

6. CONSULTATION RESPONSES

- 6.1 Landscape: No objection subject to conditions. However, there is an opportunity for additional native specimen tree and shrub whip planting, particularly in reinforcing the existing hedgerow to mitigate for the section which has been reduced. Details of all proposed planting of an appropriate specification for their position/function in the form of a planting plan, should be submitted for approval. It is strongly recommended that a professional with an understanding of planting design is involved. The type of stone finish, any edging materials and construction details of the access drive should also be submitted for approval. Comments made by the tree and transport officers should be adhered to. The

proposed access gate type is acceptable, but the height is not clear. This should be clarified.

6.2 Local Highways Authority:

Objection on highway safety grounds. The access to highway has been created adjacent to a public right of way (footpath/PRoW) which is located at one end of the site. The road is subject to a 60mph speed limit but is constrained in terms of width and forward visibility. A speed /traffic survey has been included and demonstrates that actual speeds are much lower than the posted speed limit (as would be expected). The required "Y" distances should be based on a calculated 85th percentile wet weather speeds found from a survey of at least 200 samples during a neutral month. Notwithstanding concerns with the methodology and calculations, it is accepted that reduced visibility requirements are appropriate. These would be in the order of 2.4 by 34m approximately. The proposal includes the relocation of some hedgerow to improve visibility in one direction, but no consideration of the other direction or the pedestrian visibility requirements. Pedestrian and vehicular visibility splays must be created in both directions to satisfy the safety requirements of a new access. The splays associated with nearby historical access points is irrelevant. Splays must be within the ownership (and red line) or adopted highway to be accepted. There is no scope to provide the visibility splays at this location, due to third party land bound by hedges. The setback for the gate and the apron/drive to be surfaced in bound permeable material must be sufficient to accommodate the anticipated vehicles. In this case we would suggest this would be 10m as trailers of various kinds are likely to be used for transportation, farriers, feed etc. Internally, the principles of the layout could be acceptable to highways, however the length of track is only needed because of the chosen access point and the turning head must be deep enough to allow a car and trailer to turn. It is not accepted that the turning head is sufficient to allow a 10m vehicle to turn within the site. (swept path assessments or dimensions should be provided to support the design). It is suggested that the new access improves the safety of the existing access / PRoW. This is not accepted as the key issues are visibility left and pedestrians. These are not improved. In summary, the access has not been located in an appropriate position and raises objections on highway related issues around pedestrian and vehicular visibility splays. We would suggest that the applicant considers a more central location where the PRoW is avoided, and visibility can be provided in both directions. (Also reduces the length of drive needed).

6.3 Ecology: As far as the application relates to the creation of the access track and translocation of the hedge to create a visibility splay, this would entail removal of areas of vegetation, so the application should be supported by a Preliminary Ecological Appraisal. This should describe the habitats on site, any protected species they may support, and indicate whether any further surveys are needed.

6.4 Public Rights of Way:

Initial comments - As a result of this development my comments would have been that the PROW that runs to the North of this property needed to remain open to the public (24/7) and that the line of the PROW cannot be changed in any way without a Legal Order for a diversion being agreed. Users should not be put at any risk during construction and if the PROW were to be closed during this time, then a legal order for a closure would have needed to be submitted. If any future development were to be requested, then the above will need to be considered.

Final comments following a site visit - No impact to PROW.

6.5 Tree Officer:

Initial comments - It is impossible to tell the impact the new access way and its construction has had on the adjoining hedging trees and their rooting area. This should have been addressed prior to the construction of the access track. Therefore, details of the construction employed to create the access way is required and a bone fide Tree Consultant will be required to examine the site in relation to the construction of the access way, ground compaction and potential root damage. A Tree Consultant will be required to submit these details with the appropriate mitigation/remediation.

Final comments following the submission of an arboricultural implications assessment – No objections subject to conditions and arboricultural implications assessment to be followed.

6.6 Drainage: No comments received.

6.7 Environmental Health: No comments received.

6.8 SAB: No comments received.

7. PUBLIC REPRESENTATIONS

Neighbour notification letters were sent (one adjoining neighbour) and a Site Notice was displayed. A Press Notice was posted.

7.1 NEIGHBOURS: No comments received.

7.2 PENHOW COMMUNITY COUNCIL: Council have seriously considered this retrospective planning application, noting that they highlighted (to the Planning Authority) the development taking place sometime in April 2024 when the bank, hedgerow and a substantial Ash tree, were taken out, having probably been in place some 200 years. This is a new entrance on to a single-track lane. The Wales Planning Inspectorate have in the past refused additional/new agricultural access on to single track lanes, and therefore this particular application should be carefully investigated before any final decision is made. The ancient native hedgerow served to stabilise the bank preventing landslides onto Penyworlod Lane, especially during adverse weather. The large Ash tree, within the hedge line has also been removed. This Ash tree identified in a recent survey was at least 180-year-old (which incidentally was FREE of ash die-back disease at the time of the survey). The access created within the hedge line now causes a 'camber' for agricultural vehicles accessing/egressing the adjacent existing agricultural gateway which could result in the toppling of equipment and/or loss of load. Whilst the field access/farm gate may be used infrequently, it is still a vehicular access/egress in to/off the single-track lane which could now cause a Health and Safety issues for any passing pedestrians/cyclist/horses etc if a vehicle is in the process of going in to/coming out of the gateway. The new access is also not conducive to walkers using the adjacent PROW stile. Further the trackway laid down within the site, seems rather excessive for mere access to the permanent stable block and Council have concerns that this initial development is the precursor to further proposed development. So, at present, Council can only presume that the hardcore trackway, to the stable and beyond is for the access of a horse trailer/lorry. The entrance and track on the new development seems excessive for what is potentially a 'pony paddock'. The track seems to be made up of various types of hardcore/rubble, and Council would ask the question whether permission has been sought from Natural Resources Wales for a permit/licence to use such materials within a green field site? The visual splay when egressing site needs to be sufficient to cope with safely joining the single-track lane, which is busy with walkers, horses, cyclists and other motorised and agricultural vehicles. Health and Safety for users of the lane is paramount. Council question whether the visual splay is currently sufficient and suitable for a vehicle pulling a horse trailer – if that is what this access is all about? Cannot support the application however if the application is to be approved, several conditions are requested to be attached.

8. ASSESSMENT

8.1 **Visual Amenity:**

The site is located within both the open countryside and a special landscape area. As such policies SP5 and SP8 are relevant and state respectively 'development in the countryside will only be permitted where the use is appropriate in the countryside, respects the landscape character and biodiversity of the immediate and surrounding area and is appropriate in scale and design.' 'Proposals will be required to contribute positively to the area through high quality design, materials and management schemes that demonstrate a clear appreciation of the area's special features.' The application is, in part, retrospective.

In order to create the access, a section of hedgerow has already been removed, including a tree according to the Community Council, and engineering works consisting of the removal of material to provide a level access have also been undertaken. Due to the change in levels and the removal of the material, bare earth embankments are present either side of

the access as well as along part of the track. The embankments are visually incongruous. The Arboricultural Implications Assessment states:

Entrance at north end of G2 to the proposal area has exposed some minor rooting structures within the remaining bank of retained trees due to excavation work for the access into the site. Mitigation planting of 15 native broadleaf whips required on access in flare bank top to restore hedge density.

No clear plan of such landscaping has been provided with this application and much appears reliant upon survey work and proposals that the applicant refers to dated 2022. However, the LPA has no corresponding application on this or the adjoining site for this time period. The 2024 application relating to land south of the site and referred to in the site history, does not include a landscape plan or survey of this application site. It is therefore unclear what this dialogue refers to.

A substantial track, approximately 80m in length, is proposed across the entire length of the field and appears predicated on the need to access an existing building from the furthest possible part of the field. The need for such a substantial track within this location has not been demonstrated and it is considered to be unjustified development within the countryside. Whilst the application states that only a small section of hedgerow was removed, its impact is great and the action appears unjustified. Pen-y-Worlod Road is a narrow single track country lane that is bound by high and well established hedgerow. The removal of this section of hedgerow to create the access and the proposed translocation of a further large section of existing hedgerow to facilitate the access works would significantly open up the boundary and adversely impact green infrastructure and visual amenity. This along with the proposed erection of gates and fencing, that are not agricultural in design or justified, and the proposed laying of a 6m length of tarmac followed by the stone track would appear overengineered and unsympathetic for the purpose of serving an agricultural field. It erodes the character and appearance of this rural streetscape and is of demonstrable harm. The works do not integrate sympathetically into the landscape, and no landscaping has been proposed in an attempt to reduce or mitigate the impact. Overall, the proposal would result in an unjustified, visually dominant and intrusive development in this pleasant countryside setting contrary to policies SP5 and SP8 of the Newport Local Development Plan.

8.3 **Biodiversity:**

Policy 9 of Future Wales states that in all cases, action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated. Planning Policy Wales (Edition 12) (PPW) reiterates that biodiversity must be maintained and enhanced to enable resilient ecological networks to be built and deliver net benefits for biodiversity. Policy GP5 of the NLDP supports this and states that proposals will be expected to maintain, protect and enhance ecological networks and features of importance for biodiversity.

Furthermore, PPW indicates that a step-wise approach must be taken to maintain and enhance biodiversity, build resilient ecological networks and deliver net benefits for biodiversity by ensuring that any adverse environmental effects are firstly avoided, then minimized, mitigated, and as a last resort compensated for. Evidence in the form of a Green Infrastructure Statement should accompany the application to ensure that the step-wise approach has been followed. Where biodiversity enhancement proportionate to the scale and nature of the development is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise, it will be necessary to refuse permission.

Paragraph 6.2.12 of PPW states 'A green infrastructure statement should be submitted with all planning applications. This will be proportionate to the scale and nature of the development proposed and will describe how green infrastructure has been incorporated into the proposal.' The Green Infrastructure Statement that has been submitted states an intention to 'remove all elements of bamboo from the hedgerow to the boundary with the highway as part of enhancing the green infrastructure on site' as well as providing bird and bat boxes. Paragraph 6.4.42 of PPW states that 'Permanent removal of trees, woodland and hedgerows will only be permitted where it would achieve significant and clearly defined

public benefits. Where individual or groups of trees and hedgerows are removed as part of a proposed scheme, planning authorities must first follow the step-wise approach as set out in paragraph 6.4.15. Where loss is unavoidable developers will be required to provide compensatory planting (which is proportionate to the proposed loss as identified through an assessment of green infrastructure). Replacement planting shall be at a ratio equivalent to the quality, environmental and ecological importance of the tree(s) lost and this must be preferably onsite, or immediately adjacent to the site, and at a minimum ratio of at least 3 trees of a similar type and compensatory size planted for every 1 lost.' No compensatory planting has been proposed. There is also no evidence that the stepwise approach has been followed.

The baseline for assessment must be the site prior to removal of the hedge and tree mentioned by the Community Council. The loss of landscape appears avoidable and the need for the development questionable. It is considered that the Green Infrastructure Statement is inadequate as it fails to assess the existing green infrastructure on site as well as failing to detail the green infrastructure that has been lost from the work that has already taken place as well as what would be lost from the further works proposed. As a result of this lack of information, it is not possible to fully assess whether what is proposed in the Green Infrastructure Statement is adequate to both replace what has been lost (mitigation) as well as enhancement.

In conclusion, it is considered that the proposed development fails to demonstrate that it would not harm biodiversity interests or secure a net gain for biodiversity. It is therefore contrary to Future Wales Policy 9, the aims of PPW in so far as they relate to biodiversity interests and environmental protection and Policy GP5 of the Newport Local Development Plan (Adopted January 2015).

8.4 Ecology:

As the proposal would entail the removal of areas of vegetation, the Council's Ecology Officer has advised that the application should be supported by a Preliminary Ecological Appraisal. This should describe the habitats on site, any protected species they may support, and indicate whether any further surveys are needed. No Preliminary Ecological Appraisal has been submitted for consideration and as such this is contrary to policies SP9 and GP5. Any such survey relating to a previous scheme cannot be relied upon.

8.5 Highway Safety:

An access has been created from Pen-Y-Worlod Road to the site which is also adjacent to a public right of way. The road is a single-track country lane subject to a 60mph speed limit. The road is constrained in terms of its width and forward visibility. A speed/traffic survey has been included and demonstrates that actual speeds are much lower than the posted speed limit. Whilst the Council's Highways Officer had some concerns with the methodology and calculations within the survey, it is accepted that reduced visibility requirements are appropriate (2.4m by 34m). In order to address the lack of visibility currently on site, the application proposed to translocate part of the hedgerow. However, this fails to consider the other direction as well as pedestrian visibility and pedestrian and vehicular visibility splays must be created in both directions particularly bearing in mind the site adjoins a PROW. It is considered that there is no scope to provide the visibility splays at this location due to third party land bound by hedges. The substandard visibility splays result in a harmful impact to highway safety.

A 6m length apron/drive which would be surfaced in bound material is also proposed at the access, however, the Highways Officer considered that an appropriate length would be 10m. It is also noted that the turning head is not sufficient in length and would need to allow a 10m vehicle to turn within the site. A swept path assessment or dimensions was not submitted to support the proposed design. Changes required by the Highways Officer would further exacerbate the impact of the access and track on the character and appearance of the rural area, giving rise to a significantly overengineered roadway for an agricultural field, and would not be supported.

8.6 Other Matters

A PROW runs to the north of the site. The Council's Public Rights of Way Officer has visited the site and confirmed that the work that has currently been undertaken has no

direct impact on the PROW. However, it should be noted that the PROW must remain open to the public (24/7) and the line of the PROW cannot be changed in any way without a Legal Order for a diversion being agreed. Users should not be put at any risk during construction and if the PROW were to be closed during this time, then a legal order for a closure would have needed to be submitted. Nonetheless, lack of visibility at the new access so close to the PROW does reinforce the concerns of the Highways Officer in relation to lack of pedestrian visibility and related highway safety matters.

9. OTHER CONSIDERATIONS

9.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

9.2 *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

9.3 Having due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

9.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

9.5 *Planning (Wales) Act 2015 (Welsh language)*

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

9.6 *Newport's Well-Being Plan 2018-23*

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle 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. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

10. CONCLUSION

10.1 The development is excessive and unjustified and results in a visually incongruous change in the countryside and special landscape area to the detriment of the rural character and appearance of the area as well as general visual amenity. No evidence has been provided to mitigate this objection and the development is contrary to policies SP5, SP8, and GP2? of the Newport Local Development Plan 2011 - 2026 (Adopted January 2015).

10.2 The proposal has had a significant adverse impact upon interests of acknowledged importance, namely green infrastructure and biodiversity, due to the loss of hedgerow and other green infrastructure from the creation of the access and other works on site. A Green Infrastructure Statement has been provided but fails to demonstrate a step wise approach

to maintain and enhance biodiversity, build resilient ecological networks and deliver net benefits for biodiversity. There is insufficient information submitted to overcome these objections. The application is therefore contrary to Future Wales Policy 9, the aims of PPW12 in so far as they relate to biodiversity interests and Policies SP9 and GP5 of the Newport Local Development Plan.

- 10.3 The access results in significant harm to interests of acknowledged importance, namely highway safety, by reason of substandard visibility. This is contrary to policy GP4 of the Newport Local Development Plan 2011-2026 (January 2015) and no information has been provided to mitigate this objection.

11. DECISION

REFUSED

01 Owing to their location, scale and design, the accessway, track works and associated fencing and gates would result in unjustified and visually incongruous features in the countryside and special landscape area to the detriment of rural character and appearance as well as general visual amenity. No evidence has been provided to mitigate this objection and is contrary to policies SP5, SP8, and GP6 of the Newport Local Development Plan 2011 - 2026 (Adopted January 2015).

02 The proposal has a significant adverse impact upon interests of acknowledged importance, namely green infrastructure and biodiversity, due to the loss of hedgerow and other green infrastructure from the creation of the access and other works on site. A Green Infrastructure Statement has been provided but fails to demonstrate a step wise approach to maintain and enhance biodiversity, build resilient ecological networks and deliver net benefits for biodiversity. There is insufficient information submitted to overcome these objections. The application is therefore contrary to Future Wales Policy 9, the aims of PPW12 in so far as they relate to biodiversity interests and Policy GP5 of the Newport Local Development Plan.

03 The access results in significant harm to interests of acknowledged importance, namely highway safety, by reason of substandard visibility. This is contrary to policy GP4 of the Newport Local Development Plan 2011-2026 (January 2015) and no information has been provided to mitigate this objection.

04 The proposal will result in a significant adverse effect upon interests of acknowledged importance, namely protected species by reason of direct impact to habitat and no information has been provided to mitigate this objection. This is contrary to policies SP9 and GP5 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) and Planning Policy Wales TAN5: Nature Conservation and Planning.

NOTE TO APPLICANT

- 01 This decision relates to plan Nos: Proposed Site Plan Drawing No.2451/03A, Location Plan Drawing No.2451/01, Image of Proposed 1.8m High Mesh Gates and Fence, Existing Site Plan Drawing No.2451/02, Transport Statement January 2025, Green Infrastructure Statement January 2025 and Covering Letter Dated January 28th 2025.
- 02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP5 (Countryside), SP8 (Special Landscape Areas), GP4 (Highways and Accessibility), GP5 (Natural Environment), GP6 (Quality of Design) and M1 (Safeguarding of Mineral Resource) were relevant to the determination of this application.
- 03 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.