

Our Ref: 3034-01/LK3

11 September 2023

By email only:

FAO Gwyn Humphreys
Wrexham Borough Council
16 Lord Street
Wrexham
LL11 1LG

Dear Gwyn

PROPOSED CHRISTMAS FARM, LAND TO THE SOUTH OF LLAY ROAD, CEFN-Y-BEDD, WREXHAM

PLANNING APPLICATION REFERENCE P/2022/0681

Introduction

I refer to the most recent (fourth) consultation response from the Local Highway Authority (LHA) dated 18th August 2023 in respect of the above planning application, enclosed with this letter for ease of reference.

This follows previous LHA responses dated 4th July 2023, 3rd February 2023 and 30th August 2022, and our letter responses dated 18th July 2023, 3rd March 2023 and 2nd December 2022.

It was understood that the previous consultation response, dated 4th July 2023, contained the only outstanding highway-related query related to the application (on forward visibility). All other issues had ostensibly been satisfactorily addressed before that point. Our most recent letter dated 18th July 2023 sought to comprehensively address that only outstanding issue of forward visibility.

Our client is therefore now at a loss to note that the latest response dated 18th August 2023 includes reference to a number of new and additional issues that have already been addressed in previous exchanges.

The following sections of this letter therefore provide our response to the latest issues raised in the consultation response dated 18th August 2023.

Various inter-related comments are included in various parts of the latest LHA consultation response, and so our response has therefore been provided on a topic basis.

Topic 1 - Visibility

Comments: *“Further to previous Highways responses and Axis letter 18th July referring to visibility plays, traffic flows, turning, and other comments, all of which still stand”*

“Whilst the B5102 is subject to a 40mph speed limit, as noted in the previous correspondence 52.6mph and 50mph observed 85th percentile speeds are recorded, considerably greater than the limit. This data demonstrates that some vehicles are travelling faster again.”

“Conclusion - We are unable to support the scheme until such time concerns over the access to and from the site, as well as visibility splays are addressed, including....Surety of long-term visibility splays in both directions, clearly indicated on a plan and demonstrated on site. Any visibility splays across third party land would only be accepted if a section 106 agreement is provided. (We can assist with this process if required).....Possibly even a reduced speed limit”

The Council's comments do not make it explicitly clear what precisely they object to on the topic of visibility. The comments suggest that the previous concerns regarding visibility, as set out in their letter dated 4th July 2023, “*still stand*”. Furthermore, some concerns are raised about the observed speeds on Llay Road, and a reference is provided regarding the “*surety of long-term visibility splays in both directions*”.

Axis' letters dated 3rd March 2023 and 18th July 2023 provided a comprehensive response on the issue of forward visibility. In particular, our most recent letter dated 18th July 2023 demonstrated that, based on detailed on-site measurements, acceptable forward visibility splays are achievable to the vehicles turning into the site access (and vice versa). No evidence has been provided by the LHA to suggest that the information within that letter is under any doubt.

Similarly, it was demonstrated in our original Highways Technical Note report dated October 2021 and our letter dated 2nd December 2022 that acceptable junction visibility splays can be achieved from the site access (assuming that the proposed realignment of the hedgerow to the west of the access is carried out and secured through a normal planning condition). This was accepted in the LHA's responses dated 3rd February 2023, and indeed that response and the response dated 4th July 2023 included the suggested content for the planning condition that would secure the junction visibility splays in perpetuity.

The previous responses have demonstrated categorically that both junction and forward visibility splays can be achieved within either the bounds of the adopted highway or within land under the applicant's control. There can be no suggestion that the junction or forward visibility splays that are achievable are under any doubt.

The LHA response states that some vehicles will be travelling faster than the observed 85th percentile design speeds (and so, by extension, it may therefore be inferred that the visibility splays may be in some way deficient).

This is a moot point. The requirement to base stopping sight distance measurements and junction and forward visibility splays on the observed 85th percentile speed of any given road is a fundamental and longstanding tenet of transport planning practice, traffic engineering and highway design. This principle has long been enshrined in the current prevailing highway design standards and guidance, and in the guidance and standards that preceded it.

The proposed site access arrangements have been designed around these standards, and have been found to conform with them. It would therefore be unreasonable and perverse to suggest that longer visibility splays may need to be achieved, particularly given that the LHA have already conceded that the junction visibility splays are acceptable, which by logical extension must therefore include an

acceptance that the derived 85th percentile speed measurements and associated stopping sight distances are also acceptable.

It should perhaps also be noted that the speed surveys from which the 85th percentile speed measurements were derived (see Appendix 3 of our HTN dated October 2021) were undertaken in July 2021.

Google Streetview imagery suggest that, after this date (between November 2021 and June 2022), vehicle activated speed warning signage was installed in the layby adjacent to the site access, facing westbound traffic.

Section 9.31 of the DfT's LTN 1/07 (Traffic Calming) document suggests that vehicle activated signage typically reduces traffic speeds by between 3mph to 9mph. Therefore, the addition of the speed warning signage after the speed survey was carried out is likely to have reduced traffic speeds materially below the level that was used to calculate the stopping sight distance and visibility splays.

The visibility splays that have been shown to be achievable are therefore likely to be robust.

In terms of the comments regarding the need to address the “*surety of long-term visibility in both directions*”, we are unsure as to what this comment alludes to, given that:-

- i. The LHA have already conceded that the junction visibility splays are acceptable;
- ii. The LHA have already twice put forward the suggested content of a planning condition that would secure the junction visibility splays in perpetuity;
- iii. It has been comprehensively demonstrated that the requisite forward visibility splays can be achieved within the adopted highway boundary and/or applicant land;
- iv. No evidence has been provided by the LHA to the contrary; and
- v. It is part of the LHA's own statutory duty to ensure that the vegetation that runs alongside Llay Road is maintained to prevent any material encroachment into the achievable visibility splays.

No third-party land is therefore required, no S106 agreement is required and no speed limit reduction is required.

Topic 2 – Accessibility

Comments: *“Contrary to the comment noting potential Active travel improvements to the footpath as early as 2024, we can confirm that there are no such plans currently, nor funds available to carry out any upgrades in the foreseeable future.”*

“...we have concluded that we cannot support the application as it stands without any improvements to the pedestrian access to and from the site for the following reasons:

....2. The footpath is generally only circa 800mm wide, less than half the width of the recommended 1.8-2m normally specified, therefore is inadequate. This inevitably puts pressure on one or more pedestrians stepping into the road if families meet in opposite directions, which would obviously be a potential risk along such a fast stretch of road.

3. This road is frequently used by HGV's as well as cars, adding to the risk of danger due to their increased width and reduced manoeuvrability.

4. The location of an uncontrolled crossing point, if outside the site is not ideal on a fast and undulating section of the road.

5. If, as its name suggests the applicant proposes to open through the winter months, any access would need to have adequate street lighting.”

“Had the distance to and from Llay and Cefn-y-Bedd been significantly longer, and not within a distance that may tempt some pedestrians, our response may have been more positive.

Obviously, had the application been adjacent to either settlement, or with improved access, then again, we would be able to support the proposal.

Should the applicant wish to explore options for improving pedestrian and cycle links between Llay and Cefn-y-Bedd, and bus routes, they can liaise directly with Gwen Thomas available on 01978 729667 However, we have already received feedback that even surveys to investigate feasibilities of such schemes may be cost prohibitive.”

“Conclusion - We are unable to support the scheme until such time concerns over the access to and from the site, as well as visibility splays are addressed, including....Increased width of pavement...provision of street lighting...provision of a safe crossing point”

There are a number of comments above relating to the perceived lack of accessibility by non-car modes to the site.

With regard to the planned improvements to widen the footway on Llay Road, and as discussed in our letter dated 3rd March 2023, it is our understanding from discussing this issue with the Active Travel Officer that a design and funding application for the Active Travel infrastructure is earmarked to take place in 2024 (and so not necessarily for actual works to take place in 2024).

Again, as we understand it, such funding would come from the Welsh Government, and the Active Travel officers would submit a bid for it. It is therefore unsurprising that WBC have indicated there no funds, at the time of writing in 2023, for these works, as there is clearly still work to do in this regard.

It is however a source of some consternation to our client that the issue of accessibility has been raised, again, after seemingly having been accepted by the LHA in their consultation response dated 4th July 2023.

Setting this aside, the degree to which the proposed development should be accessible by non-car modes of transport should be considered with some perspective.

The proposed development comprises a small-scale Reindeer Centre and paddleboarding / water-related activities for members of the public to visit.

The anticipated level of activity from visiting members of the public can be best described as ‘low-key’. Axis’ HTN report dated October 2021 suggests that only around 100 visitors might be expected to the site *per day*, on average, although this number may fluctuate depending on the season and if any particular events are being held at the site.

The number of these visitors that then might walk to the site should also be considered in context. The proposed paddleboarding element of the scheme is, by its nature, unlikely to attract anything other

than a negligible number of visitors by foot. These visitors will likely be bringing equipment and changes of clothes that would invariably be carried by a vehicle.

Whilst it is possible to imagine that *some* visitors may wish to walk to the proposed Reindeer Centre element from the settlements at Cefn-y-Bedd or Llay, again the numbers would very likely be negligible.

On many (if not most) days, it would not be difficult to envisage that the proposed development would attract no visitors at all on foot along the footway on Llay Road.

Nonetheless, the proposed site access arrangements do still include a 75m long section of 3m-wide shared foot/cycleway and pedestrian crossing point on Llay Road.

This new infrastructure is therefore considered to be proportional to the scale and nature of the proposed development, and in fact could easily be considered to be well in excess of the level of infrastructure improvement that might ordinarily be expected for a development that gives rise to only a very small level of pedestrian movement increase.

The suggestion that any further infrastructure improvements should be provided as part of the development is therefore rejected.

Turning to one of the other comments provided in regard to the width of the footway on Llay Road, this suggests that the footway is 800mm wide and so less than the “1.8m – 2m normally specified”.

Whilst it is correct to say that many items of guidance suggest that a footway should ideally be 1.8m – 2m wide, this generally only applies in those cases where a development proposes an entirely new section of footway.

The footway on Llay Road is already existing, and as indicated above, where a new section of footway *is* proposed as part of the development (which is ~3m wide and 75m long), it appreciably exceeds the recommended width by a metre or more.

It is nonetheless incorrect to say that the existing footway along Llay Road is only 800mm wide. The existing footway has, over time, become overgrown by vegetation and grass from the verge, which currently limits its effective width to around 800mm. The applicant has conducted a check of the *actual* effective footway width that would be available if this overgrown vegetation were removed and properly maintained. This was achieved by removing the overgrown vegetation with a spade at 7 selected points in the vicinity of the site.

The results of this exercise are set out on the notes within Enclosure 2 to this letter. It demonstrates that the actual footway width would be 1m or more to the east of the site access, towards Llay, and around 1m wide to the west of the site access.

Whilst this increased width might not ostensibly seem consequential, a 1m footway width is deemed to be the minimum width deemed to be necessary within the DfT’s “Inclusive Mobility” document dated 2002.

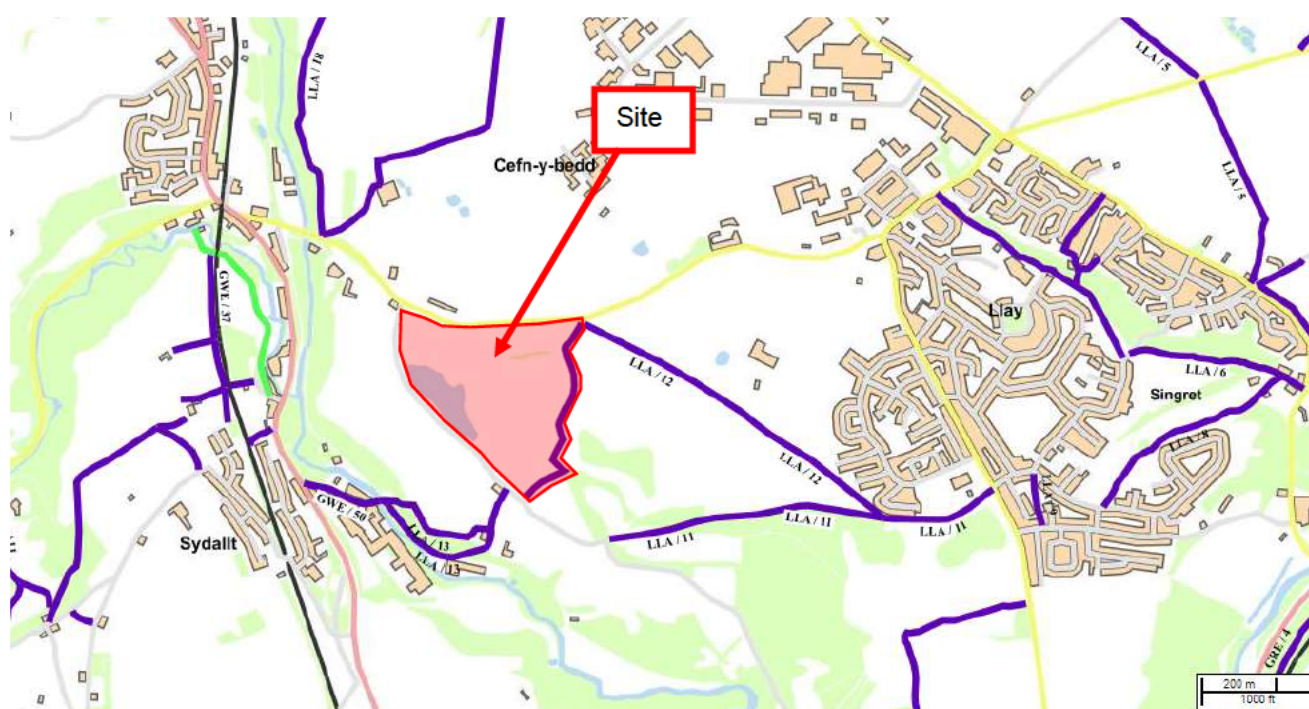
The applicant is interested to understand why the existing footway width has not been satisfactorily maintained by the LHA. To this end, he wishes to serve notice upon the LHA under S56(1) of the Highways Act 1980 to initiate this process, and to, at least initially, gain confirmation from the LHA of their responsibilities in this regard. The applicant then reserves the rights conferred under S56 to take the matter further, if necessary.

A copy of the notice dated 11th September 2023 is enclosed to this letter, and the LHA are invited to consider their duties under S56 of the legislation in this regard. In simple terms, the LHA have a month to respond.

Notwithstanding the apparent failure of the LHA to properly maintain the footway width, it should be noted that the applicant is willing to clear the overgrown vegetation, at his own cost, pending the LHA's response to the S56(1) notice enclosed with this letter.

In any event, and turning back to the planning merits of the scheme, the site is connected to the settlements of Cefn-y-Bedd and Llay by a network of public rights of way, as illustrated on the image below.

For the small number of visitors who might therefore wish to walk to and from the site by foot, these footpaths therefore provide a realistic, viable and attractive traffic-free route alternative to the footway on Llay Road.



The applicant has already carried out drainage-related and fencing improvements to the section of public footpath (LLA/12) that passes through the site, and has been complimented by officers at WBC for the changes made.

Turning to HGVs, it is also noted that the perceived frequency of HGV movement along Llay Road has been cited as a reason to suggest that the use of the footway is somehow unsafe.

To assess whether this is correct or not, Axis have re-examined the automatic traffic count (ATC) data that was collected in 2021 to the west of the site access. This demonstrates that, of the total 21,082 vehicle movements that were recorded on Llay Road in the week-long ATC data, only 3.40% (716) were classified as MGW or HGV.

This is an entirely normal level of HGV content for a road such as Llay Road, and indeed is actually well below the 5% level that is deemed to be material within paragraph 10.1.8 of Manual for Streets 2.

With regard to the proposed crossing point location, the LHA already provided comments on this element of the proposals, 2 consultation responses ago, dated 3rd February 2023.

Axis responded on 3rd March 2023, including an amendment to the plans to relocate the access further east from its previous position, as requested. In their consultation response dated 4th July 2023, the LHA accepted this amendment. It is therefore confusing, and unreasonable, that the LHA should have now commented on this element again, suggesting it is now unacceptable.

With regard to the suggestion for street lighting at the site access, it is considered that this issue can and should be addressed at the detailed design stage.

Finally, it is noted that the LHA have stated that they may have been able to support the proposals if the distance to the site from nearby settlements was either shorter or longer.

This is, self-evidently, an illogical and untenable position to take, having regard to the way in which planning policy is framed.

In response, we wish to reiterate the main points raised above which are that:-

- i. The modest scale and nature of the proposed development means that the likely number of generated visitor movements on foot will be very low;
- ii. The scale of footway improvements included as part of the scheme is therefore proportional to the scale and nature of the proposed development, and in fact could easily be considered to be well in excess of the level of infrastructure improvement that might ordinarily be expected for a development that gives rise to only a very small increase in pedestrian movement;
- iii. Investigations into the footway on Llay Road reveal that it is wider than supposed in the LHA's response, and ostensibly appears to have been allowed to become overgrown by vegetation due to a dereliction of the Councils' duty to properly maintain it;
- iv. Nonetheless, the applicant is willing to clear the overgrown vegetation, at his own cost, to restore the full effective footway width;
- v. Notwithstanding this, the site is however well connected to the nearby settlements of Llay and Cefn-y-Bedd by the public footpath network anyway. Part of the PRoW network within the site has already been improved by the applicant;
- vi. HGV levels along Llay Road are well within normal levels, and so should not be determinative to the consideration of the accessibility of the site;
- vii. The Council have already previously accepted the proposed uncontrolled pedestrian crossing point; and
- viii. Street lighting can be addressed at the detailed design stage;

Topic 3 – Parking, Servicing and Turning

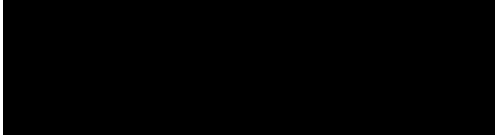
Comments: ***"We note that demonstration of adequate parking in accordance with LPG16e and arrangements for servicing, turning and safe pedestrian movement could be conditioned and reviewed if the above is resolved, or overruled".***

It is not clear whether this comment amounts to an objection from the LHA or not. It appears that the LHA are suggesting that the on-site parking, footway layout and turning areas are acceptable and may need to be considered in further detail as part of a future condition discharge submission with further details in due course.

This position would be consistent with the position previously adopted by the LHA in their consultation responses dated 3rd February 2023 and 4th July 2023, in which a similar condition requiring a Car Park Management Plan was suggested. It is assumed no further response is warranted on this topic.

I trust this is of assistance.

Yours faithfully



Lee Kendall

Technical Director on behalf of Axis

*Enc: Enclosure 1 – LHA Response Dated 18th August 2023
Enclosure 2 – Site Notes on Llay Road Actual Footway Widths
Enclosure 3 – S56(1) Notice to LHA*

MEMORANDUM

From: Chief Officer, Environment & Technical **To:** Chief Officer Planning & Regulatory

Our Ref: ET/DC/DB/P/2022/0681 **Your Ref:** SH/P/2022/0681

Date: 18th August 2023

TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995

Location: O. S Grid Ref: 318 556 Land South of Llay Road, Cefn y Bedd, Wrexham.

Development: Change of use of land for use as Christmas Tree Farm and Outdoor Recreation Centre to include Reindeer Centre, Paddle Boarding, Water Related Activities and Extension of Existing Lake, Creation of Bark Footpath, Erection of Building to Provide Office, Machine and Equipment Store, Hay / Straw Storage and Sick / Maternity Bay Space for Reindeer and creation of car park, access and site landscaping.

Further to previous Highways responses and Axis letter 18th July referring to visibility splays, traffic flows, turning, and other comments, all of which still stand, this department has reviewed/reappraised the proposal in terms of its location in relation to neighbouring settlements and the B5102, with its substandard narrow footpath along the north side of the road.

Contrary to the comment noting potential Active travel improvements to the footpath as early as 2024, we can confirm that there are no such plans currently, nor funds available to carry out any upgrades in the foreseeable future.

Consequently, and following considerable debate within this department we have concluded that we cannot support the application as it stands without any improvements to the pedestrian access to and from the site for the following reasons:

1. Whilst the B5102 is subject to a 40mph speed limit, as noted in the previous correspondence 52.6mph and 50mph observed 85th percentile speeds are recorded, considerably greater than the limit. This data demonstrates that some vehicles are travelling faster again.
2. The footpath is generally only circa 800mm wide, less than half the width of the recommended 1.8-2m normally specified, therefore is inadequate. This inevitably puts pressure on one or more pedestrians stepping into the road if families meet in opposite directions, which would obviously be a potential risk along such a fast stretch of road.

3. This road is frequently used by HGV's as well as cars, adding to the risk of danger due to their increased width and reduced manoeuvrability.
4. The location of an uncontrolled crossing point, if outside the site is not ideal on a fast and undulating section of the road.
5. If, as its name suggests the applicant proposes to open through the winter months, any access would need to have adequate street lighting.

Had the distance to and from Llay and Cefn-y-bedd been significantly longer, and not within a distance that may tempt some pedestrians, our response may have been more positive. Obviously, had the application been adjacent to either settlement, or with improved access, then again, we would be able to support the proposal.

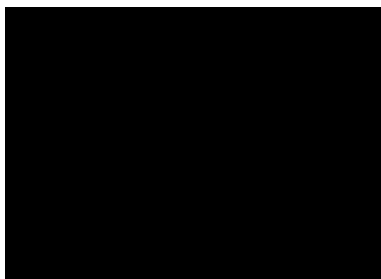
Should the applicant wish to explore options for improving pedestrian and cycle links between Llay and Cefn-y-bedd, and bus routes, they can liaise directly with Gwen Thomas available on 01978 729667. However, we have already received feedback that even surveys to investigate feasibilities of such schemes may be cost prohibitive.

Conclusion:

We are unable to support the scheme until such time concerns over the access to and from the site, as well as visibility splays are addressed, including:

- Increased width of pavement,
- provision of street lighting,
- provision of a safe crossing point,
- Surety of long term visibility splays in both direction, clearly indicated on a plan and demonstrated on site. Any visibility splays across third party land would only be accepted if a section 106 agreement is provided. (We can assist with this process if required)
- Possibly even a reduced speed limit

We note that demonstration of adequate parking in accordance with LPG16e and arrangements for servicing, turning and safe pedestrian movement could be conditioned and reviewed if the above is resolved, or overruled.



Chief Officer, Environment & Technical

ENCLOSURE 1 – PHOTOGRAPH SURVEYS OF ACTUAL FOOTWAY WIDTH ON LLAY ROAD

Image 1 – Locations of surveys and overview of results



To Wrexham Borough County Council

TAKE NOTICE that I Clinton Shaw of Christmas Farm, Llay Road, Cefn-y-Bedd, Wrexham, LL12 9UG, claim that the way of the B5102 Llay Road, between Huws Gray Building Merchants and Park Road is a highway maintainable at the public expense.

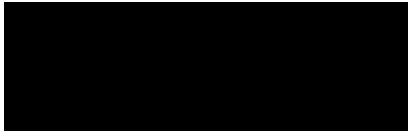
AND TAKE NOTICE that a portion of the said way, and being a distance of 1.2km or thereabouts, is out of repair insofar as the footway on the northern side of the way is overgrown and narrowed by vegetation from the vergeway.

AND TAKE NOTICE that I hereby require you pursuant to subsection (1) of Section 56 of the Highways Act 1980 to state:

- (a) whether you admit that the said portion of way is a highway maintainable at the public expense, and
- (b) whether you admit that you are the authority liable to maintain the said portion of way.

Dated 11th September 2023

Signed



Clinton Shaw