

REPORT OF THE CHIEF OFFICER PLANNING AND REGULATORY

7 February 2022

APPLICATION NO:

P/2021 /1162

LOCATION:

CATTLE SHELTER BURGESS LANE
PENLEY WREXHAM
LL13 0ND

DATE RECEIVED:

29/10/2021

COMMUNITY:

Maelor South

DESCRIPTION:

NEWID DEFNYDD TIR O FUARTH
AMAETHYDDOL I B8 (CASGLU
GWASTRAFF FFERM, STORIO A
DOSBARTHU) (OL-WEITHREDOL) /
CHANGE OF USE OF LAND FROM
AGRICULTURAL YARD TO B8 (FARM
WASTE COLLECTION, STORAGE
AND DISTRIBUTION) (IN
RETROSPECT)

CASE OFFICER:

SJG

WARD:

Overton

AGENT NAME:

MR ANDREW REEVES

APPLICANT(S) NAME:

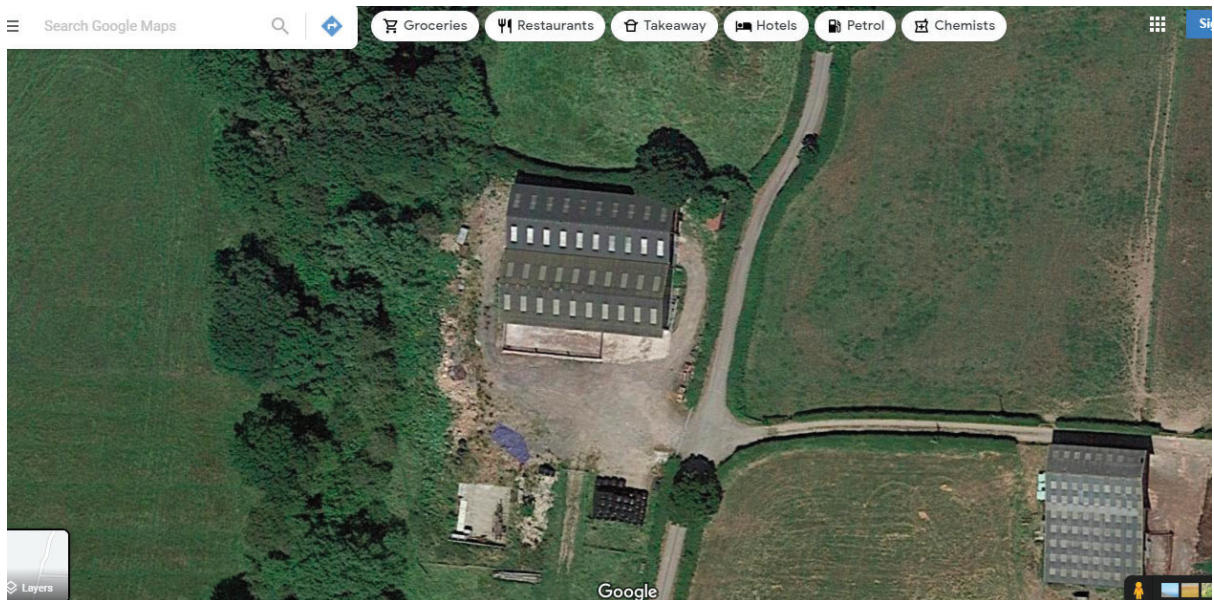
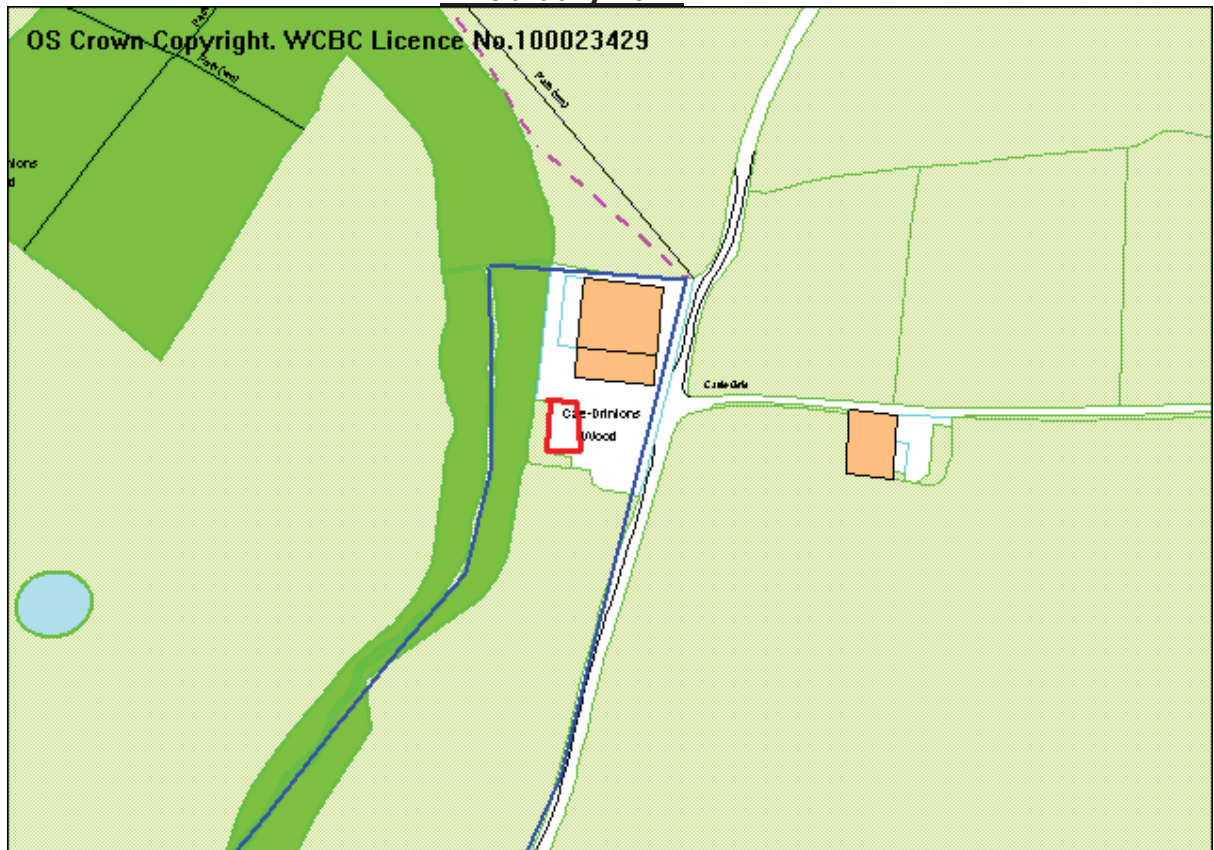
MR ANDREW REEVES

THE SITE

The site is on the west side of Burgess Lane, 1km north of the A539 between Overton and Penley. It consists of a hard surfaced uncovered storage area south of the farm buildings, with a parcel of agricultural land of 3 hectares.

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PROPOSAL

As above

The proposal makes use of a hard standing area to store bagged farm waste from local farms, prior to collection by a specialist company known as FarmXS.

Supporting Statements

Delivery takes place once a phone call has been made to arrange a suitable time. The farmers then bring the waste via their own transport, sorted and categorised into large dumpy bags.

The waste is then unloaded and storey on the yard marked in red. The amount of waste is quantified and a record sheet is filled in, detailing how much of each type of waste has been delivered (plastic wrap, baling twine, plastic and paper bags). Once recorded the farmer is asked to provide the address that the waste has come from and sign the paperwork. A copy is given to the farmer and a copy sent to FarmXS.

Once sufficient waste has accumulated FarmXS send a mobile baler on a lorry to bale the waste, ready for transportation to the waste disposal sites the company uses.

The process of storing and collecting the waste then begins again.

The hedge has now been cut back so hopefully a 33 metre splay in each direction has been achieved.

There are at least 3 passing places along the Burgess lane coming from the A539 junction some of which are in line of sight of each other so you could stay in the passing place until you could make sure the road was clear to proceed. To aid this there are a number of entrances to service the various properties which would provide adequate room for vehicles to pass one another.

The highway response states that tractors and trailer visit the site, this is correct but that is our own tractor and trailers to service the agricultural side of the business. As of yet tractors and trailers have not been used to deliver plastic, as previously stated it has been delivered using a pick type vehicle either on their own or with a trailer.

It states that at present vehicle movements are relatively low, but potentially could rise. This is not in our plans and at this moment we have no intention to increase movements along the lane.

The stated Service Delivery Management Plan to reduce vehicle movements along the lane sounds like a good idea if there were a lot of large vehicles using the lane, but as yet there hasn't been one HGV come to the site to

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deliver, bale or collect any plastic in the last 6 months. I agree that the preferred route to the site for HGVs would be from the A539 junction, and collections and deliveries are always pre arranged so the gates should be open so access is available so no congestion is caused on the lane.

There are already some HGVs operating from one of the properties along the Burgess lane and I have never been aware of any problems occurring as a result of their operations. Also, at Cross Mill farm there are a number of horses in residence on a livery basis, which probably results in more movements up and down the lane than the plastic storage side of our business.

HISTORY

P/2019/0293 Prior approval for cattle feed store building Approved 20/5/2019

P/2018/0788 Cattle shelter Granted 4/2/2019

P/2014/0276 Extension to agricultural building Granted 1/12/2014

P/2009/0789 Amendment to P/2008/0847 Granted 2/11/2009

P/2008/0847 Agricultural building Granted 6/10/2008

P/2008/0390 Agricultural building Refused 2/6/2008

Site to the east

P/2009/0611 Change of use of agricultural building to employment. Refused
28/4/2009

DEVELOPMENT PLAN

The site is outside settlement limits and within a special landscape area, as set out in the Wrexham Unitary Development Plan. Policies PS2, PS10, PS11, GDP1, EC3, EC5, EC6, EC13, MW12 and T8 are relevant, together with Local Planning Guidance Notes 7 Landscape, 16 Parking and 32 Biodiversity.

CONSULTATIONS

Community Council:

Object

1. Unsuitable Road access:

The location of the site is situated on a single track country lane that has no suitable passing points for commercial vehicles or tractors and trailers resulting in the potential of accidents in attempting to pass.

The lane has already been designated by WCBC Highways Department as unsuitable for heavy goods vehicles as indicated by signage end of Burgess Lane.

Additional traffic and weight will cause significant impact to the current road surfaces and the drainage at the side of the

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roadways would be in danger of collapse undermining the integrity of the road.

The junctions at either end of Burgess Lane onto the main road is located in a hazardous place and create problems of a vehicle is unable to make a clean sweep into the lane. The site is intended to be used as an area recycling site and not just for local farmers, this there is an intended traffic increase that is far broader than that covered by Maelor South Community Council.

There is a noncompliance from a previous planning application which had required a splayed entrance to the site to be created, this has not taken place.

2. Environmental Grounds:

The proposed surface of the storage area is stone and not a solid base with appropriate drainage and holding tanks for contaminates.

The applicant has indicated that the material stored on site will be farm waste for recycling including plastics and bags that will have contained a variety of farm products that could result in biohazard materials being produced that are not then collected in an interceptor. The material instead will flow into the adjacent brook on the site as part of the runoff.

Due to the nature of the materials being stored there is a high risk of increased vermin and rodent infestations in the adjoining area.

Local member:

Consulted 8/12/2021

Highways:

No objections subject to conditions

Natural Resources Wales:

No objections

Public Protection:

No comments

Contaminated Land:

No comments

Ramblers:

Footpath 15 should not be diverted or

blocked

Neighbours:

Adjoining occupiers notified 8/12/2021

12 Objections received:

- The plastic waste, although already sorted, will be stored uncovered only meters from a brook and will be contaminated with nitrates from fertiliser bags, silage effluent from bale wrap and silage sheets from clamped silage. All of which have the potential to contaminate

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the water courses running through the farm and neighbouring land, which is used as natural water source for cattle and the increasing diverse wildlife.

- Additionally, transportation of the waste to the area has potential biohazard implications.
- In conjunction with the Dee Valley Trust local residents have been working to balance modern farming with re-wilding including a wet land area, protection of brooks/ streams and their banks the potential impact from contamination from the waste could be significant.
- The proposals for the Waste hub represents an undesirable intrusion into the rural landscape, and will increase the visual impact of the site within a designated Special Landscape Area.
- The business is more suitable to an already established industrial estate with appropriate road infrastructure to cope with the vehicle demand or one of the applicant's other plots that have direct access off a main road.
- The site is positioned 1km along Burgess Lane which is a winding road, assigned unsuitable for heavy traffic delivering the waste and bulk collection. If heavy vehicles were to use the road regularly there would be an increase in maintenance costs for the council. Highways have previously rejected planning applications on grounds of the unsuitability of the lane for an industrial unit (ref P/2009/0611) opposite the planning application site. In this refused application, Highways concerns were; inadequate visibility at the junction with Burgess Lane, having a detrimental impact on highway safety.
- The site's existing, buildings were only granted planning on appeal based on the proprietor stating that access was only for his own personal machinery. Problems have already been encountered with vehicles parked in our private driveway blocking access as

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there no waiting/ pull off area to the site (condition of previous planning, ref P/2018/0788 consent not met). We have also had a tractor and trailer carrying farm waste (a potential biohazard) in front of our home and animal housing (photographic evidence provided), showing the prearranged gate opening as specified in the statement is not always adhered too.

- Approval of this planning consent will result in increased unsuitable traffic on Burgess Lane which was previously said would not happen for planning consent ref P/2018/0788 therefore, increasing the risk in highway safety, biohazard and environmental impact from the waste products.
- All of which could further increase if the business expands like the expansion of the single cattle shed originally on the plot, which has trebled in size (apparent infrastructure in place for further expansion) which has increased current traffic on Burgess Lane with multiple trips for transportation of silage and straw to service this building and for fodder that is stored on Burges Lane for other sites that the applicant operates from.

1 supporting comment received:

- The proposal promotes recycling rather than less acceptable forms of waste disposal, and the proposal should be supported

SPECIAL CONSIDERATIONS

Policy: The proposal is considered to be within the scope of policy E6 of the UDP which allows for small-scale farm based operations not exceeding 300m².

Policy MW12 deals with waste management facilities, including small-scale collection and recycling points. The policy does not prevent the type of facilities proposed from being located on agricultural premises.

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Landscape impact: The site adjoins other buildings and the storage is within a yard area, so the proposal is not considered to adversely affect the Special Landscape Area.

Residential amenity: The stated method of operating the business is not considered to give rise to significant local impacts, over and above what will occur from the existing agricultural enterprise on the site. It is considered that allowing a temporary use will allow these impacts to be fully assessed before a permanent permission is considered.

Ecology: There are concerns regarding plastic waste being blown off site in heavy winds. The storage area should be netted or roofed to prevent accidental littering of the environment.

The ecological enhancement plan should be implemented in full.

Natural Resources Wales has raised no objections and confirms that the proposal will not have an adverse impact on the River Dee SAC in terms of phosphates.

Highway safety and access: In view of the strong objections on highways grounds the Highway Authority's comments are set out in full below:

Access

The proposed development site is located approximately 1km along Burgess Lane off the A539. and is a narrow unclassified lane subject to a 60mph speed limit. I would however estimate typical vehicle speeds at around 25mph along this section given the geometry of the road.

Burgess Lane itself is a narrow rural lane being predominantly 2.8m wide with few suitable passing places. This lane is in poor condition and would not benefit from any significant increase in vehicle movements. Visibility at the Burgess Lane / A539 junction is inadequate in both directions providing splays of approximately 2.4 x 40m to the north west and 2.4 x 30m to the south east measured to the nearside edge of the adjoining highway. Visibility is obstructed at this junction by the existing hedgerow. For typical speeds of 60mph, TAN 18 would normally require such a junction to provide visibility splays of 2.4 x 215m in both directions measured to the nearside edge of the adjoining highway.

Assuming typical speeds of 25mph along Burgess Lane itself, Manual for Streets would normally require such an access to provide visibility splays of 2.4 x 33m in both directions measured to the centerline of the adjoining highway in which there shall be no obstruction in excess of 1.0m in height. Visibility can be permitted to the centerline of the adjoining highway given the restricted carriageway width.

Visibility from the existing gated access serving the proposed development site is inadequate in the northerly direction providing a splay of approximately

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2.4 x 25m measured to the centreline of the adjoining highway. Visibility is impeded by the existing hedgerow. However, adequate visibility could be achieved by cutting back a small section of hedgerow to the side of the access. Visibility from the existing access in the southerly direction is adequate providing a splay of approximately 2.4 x 40m measured to the centreline of the adjoining highway.

Previous Planning Consent Ref: P/2018/0788 included a condition to provide visibility splays of 2.4 x 33m in both directions from the proposed access. This has not been carried out in the northerly direction. The applicant has indicated that the hedgerow will be cutback imminently.

The existing access is approximately 10m wide with gates setback only 2.4m behind the carriageway edge. The access is surfaced with loose bound materials. Any existing / proposed gates would normally be required to be setback a minimum of 10m behind the highway boundary (subject to the maximum size of vehicle visiting the site) with the first 10m of the access being surfaced using hard bound materials. If the application is to be supported, then I would recommend that the existing gates are setback and the access surfaced as detailed above.

Parking & Turning Provision

There would appear to be sufficient parking and turning provision within the curtilage of the site.

Traffic Generation

If the proposed development was considered to generate any significant additional traffic movements, it would be difficult to support such an application given the narrow nature of Burgess Lane leading to the A539 junction. A scheme of formal passing places may be considered appropriate if this was the case.

The applicant has indicated that typical vehicles visiting the site are pick up type vehicles sometimes with trailers. The applicant has stated that at the moment they receive one or two deliveries per week from farmers. It would appear that tractors and trailers also visit the site with waste.

I understand that HGVs will only visit the site when the plastic waste needs bailing which apparently only occurs around twice per year. The baled product is then removed from the site and the storage process starts again.

Although at present, additional daily vehicle movements at the site would appear relatively low, the proposed development may be considered to have the potential to result in a significant increase in vehicle movements as the business develops. In this instance, it may be considered appropriate to request a scheme of passing places along the main route leading to the site. It is assumed that the main route to the site would be via the Burgess Lane / A539 junction to the south. The applicant would need to enter into a s.278 agreement with the Council to construct any passing places.

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It may be considered appropriate to impose a condition for a Service, Delivery Management Plan to limit the number of daily vehicle movements at the site and frequency of HGV collections. This could include such details as the preferred route to / from the site ie/ via the A539 junction, how vehicle movements will be staggered, staff being on site to open the gates for deliveries, statement that no parking and turning will occur on the adjoining highway.

Having considered the representations and the consultation response, it is considered that a temporary permission is appropriate, to enable a decision to be made on the need for the suggested conditions.

Waste licencing: Natural Resources Wales has been in contact with the applicant. They have advised separately to the application:
The advice has all been followed and the owner has registered the relevant waste exemptions and upper tier waste carrier licence. From our perspective all the relevant regulations have been complied with and there will be no further action.

NRW has also spoken to the company Farm XS who organise this on behalf of the local collectors to ensure they are aware of their legal obligations within Wales.

CONCLUSION

The use is a specialist farm waste business, which is considered to be within a farm diversification project under policy E6 and compliant with policy MW12. The use has the potential to cause highways and amenity issues if the business grows or does not adhere to the stated operating methods, and so a temporary permission should be considered to allow for monitoring of the use during the temporary period. When an application is received to remove the time limit, the impacts on the locality can be assessed, and the imposition of the full suite of conditions recommended by highway authority can be considered.

RECOMMENDATION: That permission be GRANTED

CONDITION(S)

1. The development shall only be carried out in strict accordance with the details shown on the approved drawing(s) received 8/12/2022 and as contained within the application documentation.
2. This permission shall not be for the benefit of the land but shall operate for the benefit of Mr Andrew Reeves and immediately on the discontinuance of his use of that land, or on 30/6/2023 whichever is the earlier, the use shall be permanently abandoned. The land shall be restored to its previous condition not later than one month after that date.

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3. Prior to first use of the vehicular access hereby approved, the access shall be surfaced with hard bound materials (e.g. bituminous macadam) for a minimum distance of 10 metres behind the adjoining highway.
4. There shall be no gates or other means of enclosure across the vehicular access point within 10 metres of the highway boundary.
5. The storage area shall be kept covered with netting to prevent accidental spreading of waste onto adjoining land.
6. The development shall be carried out in strict accordance with the proposals contained within the Ecology Enhancement Scheme received on 8/12/2021 and approved as part of this application. The mitigation and compensation measures hereby approved shall be fully implemented prior to first use of the development.

REASON(S)

1. To comply with section 71ZA (2) of the Town and Country Planning Act 1990.
2. To enable the operation and the impacts on amenity and highway safety to be re-assessed at the end of the temporary period
3. To ensure that no deleterious material is carried onto the highway, in the interests of highway safety in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
4. In the interest of the free and safe movement of traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
5. To protect the amenities of the locality in accordance with Policies GDP1 and EC6 of the Wrexham Unitary Development Plan.
6. To protect named species / habitats / biodiversity which would otherwise be damaged / lost by the development hereby permitted in accordance with Policies GDP1 and EC6 of the Wrexham Unitary Development Plan.

NOTE(S) TO APPLICANT

Following the commencement of Schedule 3 of the Flood and Water Management Act, the works as proposed are required to obtain approval from the SuDS Approving Body (SAB) prior to commencement of those construction works. Further details of the SAB, the new national standards, the pre-application advice service and the application for approval process can be found on the Wrexham CBC's SAB webpage:

https://www.wrexham.gov.uk/english/planning_portal/sab/sab.htm or by contacting the SAB Team directly at SAB@wrexham.gov.uk

Your attention is drawn to Highway Supplementary Notes - Refer to Statement of Applicant's Rights and General Information on our planning web site at:-

http://www.wrexham.gov.uk/english/planning_portal/publications/info_sheets.htm

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Public Footpath No.15 - Penley passes immediately to the north of the development site and should not be interfered with.
