

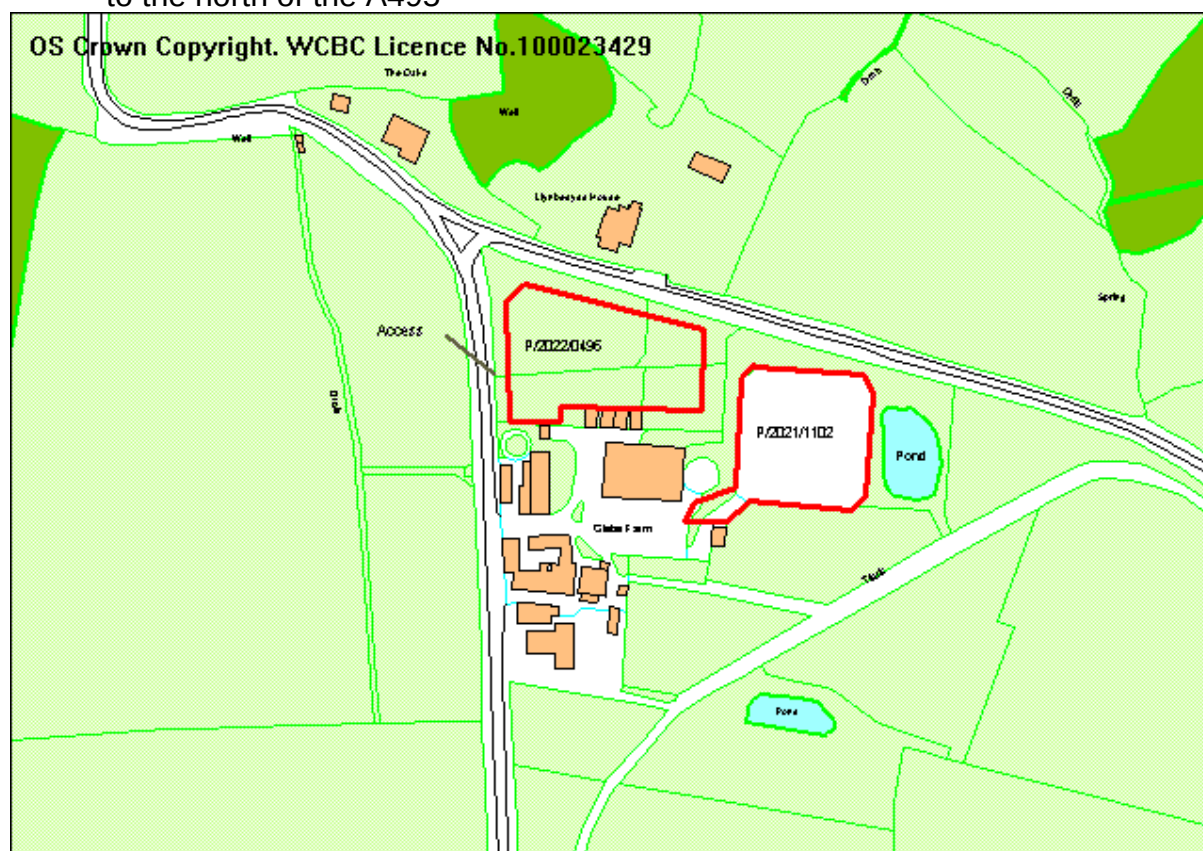
**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APPEAL AT
GLEBE FARM, BRONINGTON**

COUNCIL'S STATEMENT OF CASE

**PLANNING REF: P/2022/0496
PEDW REF: CAS-02813-H6S5W1**

1.0 THE SITE

- 1.1. The site is on the north side of Glebe Farm adjoining two unclassified roads, to the north of the A495



2.0 PROPOSAL

- 2.1 The appeal relates to condition 04 imposed on planning permission P/2022/0496, which gave retrospective planning permission for the formation of a hard surfaced parking area.

3.0 DEVELOPMENT PLAN

- 3.1 Policies PS2, GDP1, EC6 and T8 of the adopted Wrexham Unitary Development Plan are considered directly relevant to the appeal.
- 3.2 Whilst the Wrexham Local Development Plan has not been adopted, the Council received the LDP Inspectors Report on 27 February 2023 confirming the Plan to be sound. It is therefore considered a material consideration of significant weight. LDP policies SP14, DM1, NE1 and EM4 are relevant to the appeal. These are included in **Appendix 1**.

4.0 COUNCIL'S CASE

- 4.1 The application was reported to planning committee on 5 December 2022. A copy of the report of the Chief Officer, Economy and Planning can be found at **Appendix 2**.

- 4.2 Committee Members voted to visit the site and a site visit duly took place on the 16 December. Following the site visit Members voted in support of the Officer recommendation, subject to some minor changes to the wording of condition 1 and to the addition of condition 4.
- 4.3 Members considered the proximity and elevated position of the car park relative to Llybedydd House to the north warranted additional screening in order to minimise the impact of noise and illumination from vehicle headlights resulting from the use of the car park. A 2m high fence was considered to be the minimum height required to achieve this.
- 4.4 The appellants submitted an application to discharge the condition in early 2023 (reference P/2023/0147), however a post and rail type fence was proposed rather than a solid screen thus not meeting the requirements of the condition. The application to discharge the condition was subsequently refused on 28 April 2023.
- 4.5 The Council contends that the condition is necessary to protect the living conditions of nearby occupiers. The impact on living conditions is a relevant material consideration therefore the condition is relevant to planning. It is relevant to the development given that the use of a car park has the potential to give rise to disturbance to nearby occupiers. The condition is also considered to be enforceable, precise and reasonable. As such the 'six tests' set out in Circular 16-2014 are met.

5.0 CONSIDERATION OF LDP POLICIES

- 5.1 The LDP policies would not alter the assessment of the principle of development set out in the report of the Chief Officer, Economy and Planning. The requirements of LDP policies in respect of residential amenity, highway safety, visual impact and ecology are broadly similar to the equivalent UDP policies. Subject to the conditions imposed, the development is therefore acceptable if considered in the context of LDP policies.

6.0 CONCLUSION

- 6.1 The Council considered the condition to be necessary to protect the living conditions of nearby occupiers. It therefore respectfully requests the appeal be dismissed.

7.0 COSTS APPLICATION REBUTTAL

- 7.1 Paragraph 3.9 of the section 12 Annex to the Development Management Manual confirms that a Planning Committee is not bound to adopt the advice of Officers. When presented with a recommendation to grant planning permission, Members of a Planning Committee are therefore entitled to consider whether additional conditions should be imposed in addition to those recommended by Officers.

- 7.2 In this case of the appeal proposals, Members considered the application on 5 December 2022 and then again on 16 December, following a site visit. During the site visit Members not only visit the application site itself, but also the lane separating the appeal site from Llybedydd House. In considering the application, Members have therefore given detailed consideration to the relationship between the two sites.
- 7.3 Considering the impact of a development on the living conditions of a neighbouring property is key material consideration. Members have acted reasonably in considering whether the operation of the car park may give rise to unacceptable disturbance and whether additional measures to those set out in the application were necessary to adequately mitigate those impacts.
- 7.4 The Council contends that the conditions meet the 6 tests set out in Circular 016/2014 and as such it has not acted unreasonably. The Council therefore respectfully requests that the application for costs be dismissed.

Appendix 1: Relevant LDP Policies

Policy SP14: Natural Environment

Development will only be permitted where it seeks to protect, conserve and enhance the natural environment including:

- Special Areas of Conservation, Special Protection Areas, and Ramsar Sites;
- Sites of Special Scientific Interest and National Nature Reserves;
- Protected Species and their habitat;
- The Clwydian Range and Dee Valley Area of Outstanding Natural Beauty
- Local Wildlife Sites;
- Local Nature Reserves;
- Special Landscape Areas;
- Natural landscape features and Green Infrastructure such as trees, hedges and woodland which contribute to the quality and diversity of the natural environment and play an important role in mitigating the impact of climate change;
- The quality of natural services including water, soundscape, air and soils; and
- Habitats and species of principal importance to Wales.

Policy NE1: International and National Nature Conservation Designations

Development likely to significantly affect any protected site of international importance, either alone or in combination with other plans or projects, will be subject to a Habitat Regulations Assessment (HRA). Development will only be permitted where it is possible to ascertain no adverse effect on the integrity of the habitat or site or where there are Imperative Reasons of Overriding Public Interest and compensatory measures are secured.

Permission for development likely to impact the special features of a Nationally Designated Site will only be granted in exceptional circumstances where appropriate compensation can be provided.

Development likely to affect any protected species will only be permitted when there is no satisfactory alternative and if there is no detrimental impact to the maintenance of the population concerned at a favourable conservation status in its natural range. The proposals must adequately demonstrate that they are for the purposes of preserving public health or safety or reasons of overriding public interest.

Policy DM1: Development Management Considerations

Development proposals, where relevant, must:

- i. Accord with or enhance the character, local distinctiveness and appearance of the site, existing building(s) and surrounding landscape/ townscape in terms of their siting, layout, scale, height, design, density, use of materials and landscaping;
- ii. Not have an unacceptable effect on the amenity of the occupiers of nearby properties/land; and provide a satisfactory standard of amenity for the occupiers/users of the development itself;
- iii. Safeguard the environment from the adverse effects of pollution of water, land, noise, light or air, or land instability, arising from development;
- iv. Take account of personal and community safety and security in their design and layout;
- v. Prioritise walking, cycling and public transport use ahead of travel by car;
- vi. Not give rise to highway safety, pedestrian safety or parking problems on site or in the locality;
- vii. Contribute to low carbon communities through energy efficiency, be designed to minimise the use of non-renewable energy, water and the production of waste both during construction and when in use;
- viii. Not increase the risk of flooding but make adequate provision for sustainably dealing with foul and surface water drainage and not result in an unacceptable impact upon the water environment;
- ix. On sites which have previously been developed, new development proposals should make use of existing suitable building materials wherever possible for appropriate uses in order to re-use recyclable materials and reduce the amount of imported materials; and
- x. Ensure that any risks arising from past coal mining, as indicated on the constraints map, can be adequately managed.*

*The Coal and Development (High Risk) areas identified on the Constraints Map have been defined on the basis of the best information available to the planning authority and are not necessarily exhaustive. Responsibilities for determining the extent and effects of instability, contamination and other risks remain that of the developer, who must ensure that land is suitable for the development proposed'.

Policy EM4: Employment Development Outside of Settlement Limits

New employment development outside of settlement limits will only be permitted through:

i. The conversion of an existing building where:

- a) The building is suitable for the proposed use and is structurally sound and capable of conversion without extensive alteration, rebuilding or extension; and
- b) Conversion does not result in an unacceptable impact on the structure, form, character or setting of a building of historic or architectural merit; and
- c) The proposed use(s) and the curtilage of the development, either individually or cumulatively with other similar developments, do not result in a harmful effect on the character of the site, infrastructure, the wider countryside and is appropriate in scale for its location in terms of traffic generation.

ii. New development required in connection with a rural enterprise, including proposals for farm diversification where:

- a) The development is located within or forms a logical extension to the complex of buildings on an existing rural enterprise; or
- b) In the case of buildings located away from an established rural enterprise complex, where a clear need for the development has been demonstrated and where there is no reasonable alternative location for the development.

iii. It involves the extension of an existing employment site. Where the existing employment site is located within a settlement limit or employment area and proposes to expand onto land outside the settlement limit/employment area, the following must be met:

- a) It must be demonstrated that there are no suitable sites located within a settlement limit/employment area for the extension to be located;
- b) The new development forms a logical extension to the settlement limit/employment area.

REPORT OF THE CHIEF OFFICER ECONOMY AND PLANNING – 5 December 2022

APPLICATION NO:
P/2022 /0496

LOCATION:
GLEBE FARM BRONINGTON
WREXHAM
SY13 3HU

DATE RECEIVED:
23/05/2022

COMMUNITY:
Bronington

DESCRIPTION:
CREU MAN PARCIO (YN OL-
WEITHREDOL) / CREATION OF CAR
PARKING AREA (IN RETROSPECT)

CASE OFFICER:
MP

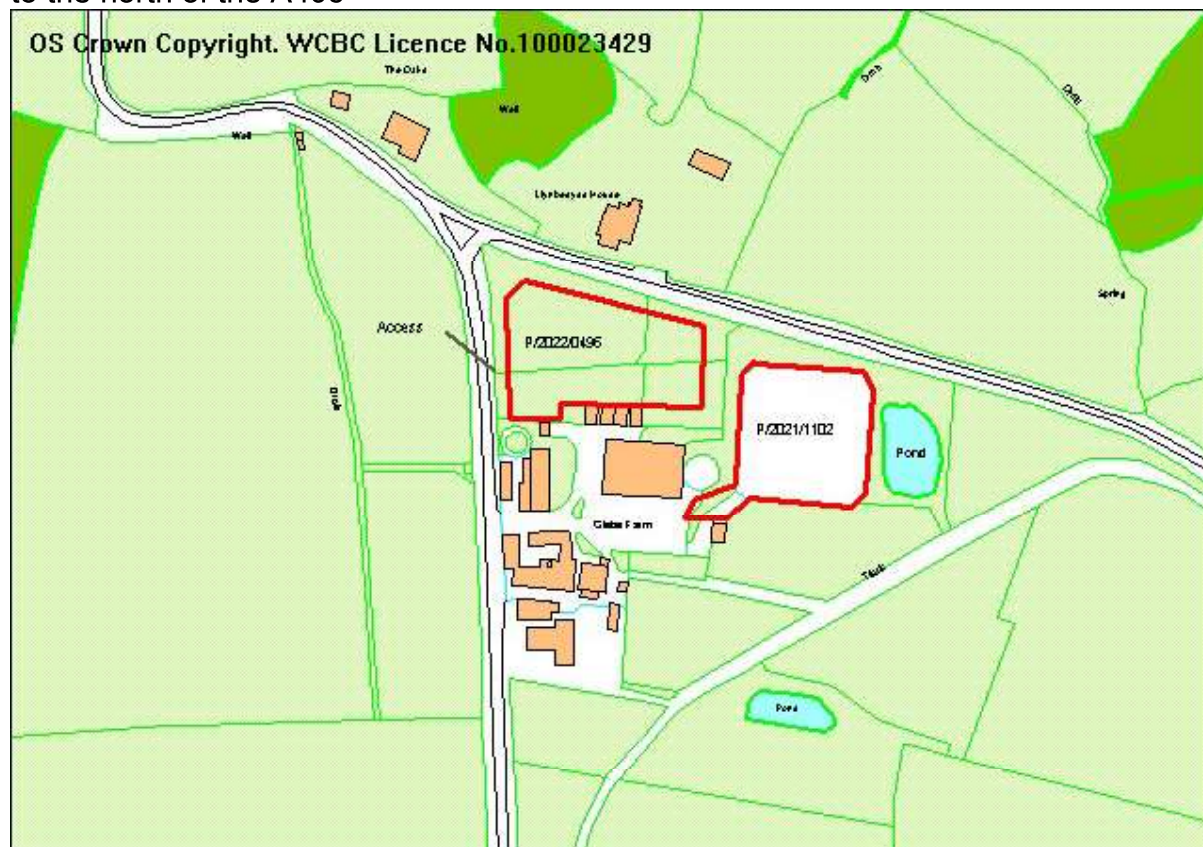
WARD:
Bronington

APPLICANT(S) NAME:
MR AND MRS S PARKER

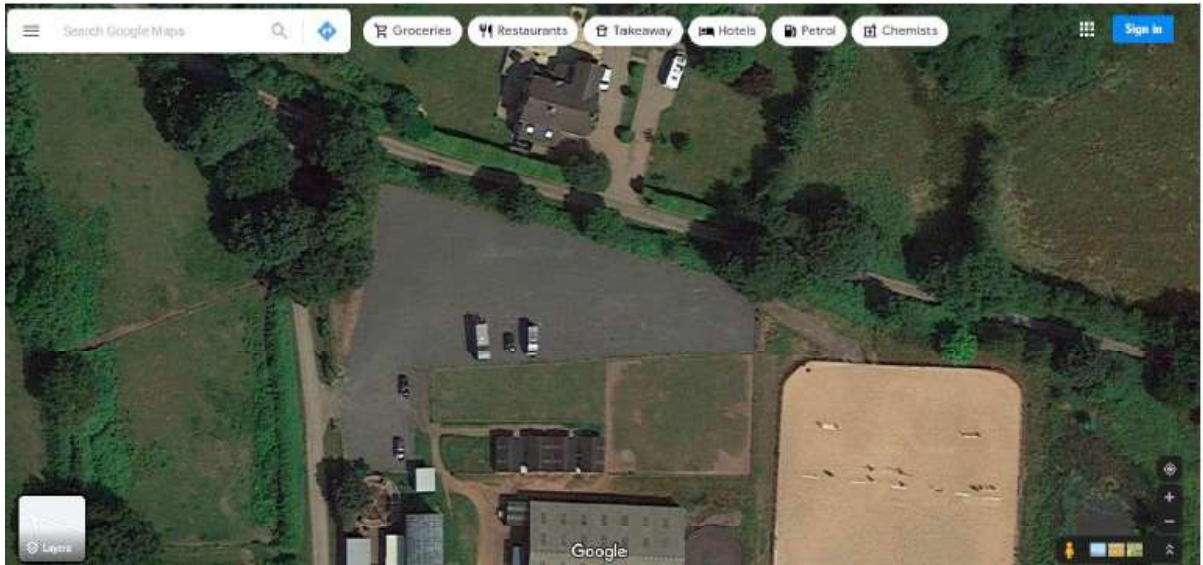
AGENT NAME:
BOB DEWEY PLANNING
MR B DEWEY

THE SITE

The site is on the north side of Glebe Farm adjoining two unclassified roads, to the north of the A495



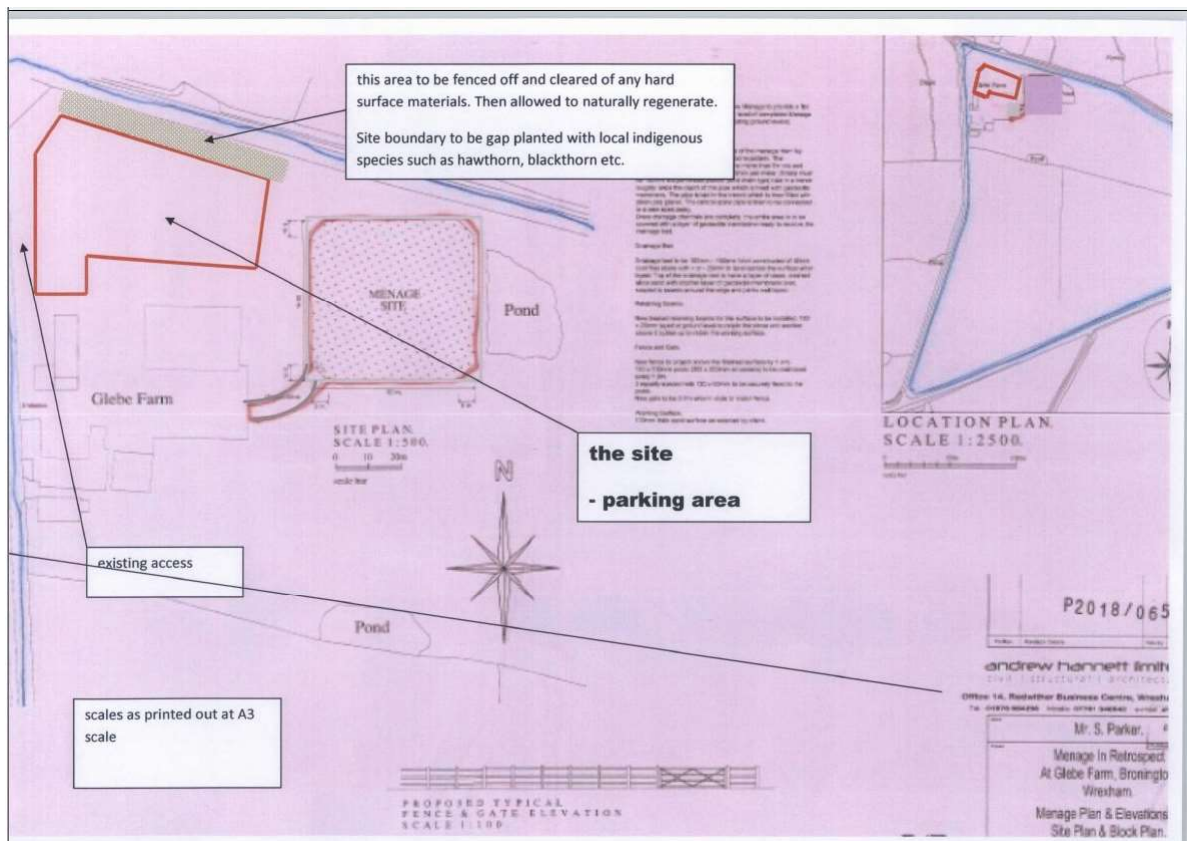
REPORT OF THE CHIEF OFFICER ECONOMY AND PLANNING – 5 December 2022



PROPOSAL

As above

The application relates to the parking area to the north of the farm which has been re-surfaced and extended in recent years.



HISTORY

P/2000/0744 ERECTION OF GENERAL PURPOSE FARM BUILDING.
Refused 3.10.2000

P/2001/0029 ERECTION OF REPLACEMENT STORAGE BUILDING (FOR SHEED, STRAW, HAY). Granted 5.3.2001

P/2006/0686 CHANGE OF USE OF LAND AND BUILDINGS TO LIVERY YARD. Granted 8.8.2006

P/2016/0726 CONVERSION OF REDUNDANT FARM BUILDING TO 1 NO BEDROOM HOLIDAY LET AND SINGLE ROOM WORKSHOP / STUDIO WITH ANCILLARY WC. Granted 8.9.2016

P/2018/0657 CONSTRUCTION OF MENAGE (IN RETROSPECT). Granted 11.9.2018

P/2021/1002 TYNNU AMOD 2 (DEFNYDD CYFYNGEDIG) O GANIATAD CYNLLUNIO P/2018/0657 / REMOVAL OF CONDITION 2 (RESTRICTED USE) OF PLANNING PERMISSION P/2018/0657. Pending.

P/2022/0153 TYSTYSGRIF DATBLYGIAD CYFREITHLON AR GYFER DEFNYDD PRESENNOL – DEFNYDD TIR AR GYFER GOSOD WYNEB CALED AC ARDAL BARCIO / LAWFUL DEVELOPMENT CERTIFICATE FOR EXISTING USE – USE OF LAND FOR HARD SURFACING AND PARKING AREA Refused 8.2.2022.

DEVELOPMENT PLAN

The site is outside settlement limits as set out in the Wrexham Unitary Development Plan. Policies PS2, GDP1, EC6 and T8 are relevant.

CONSULTATIONS

Bronington Community Council

Object on the following grounds:

- Loss of privacy for neighbouring property: The car parking area overlooks the neighbouring property as it is located at the boundary which is directly opposite the neighbouring property that is separated by a narrow single track road.
- The Council considers there are alternative areas at the property where the car parking area could be situated.
- The car parking area is for the equestrian business at Glebe Farm e.g. horse boxes and horse trailers which has resulted in an increase of traffic to the property. Access to Glebe Farm is via a single track road which is not designed nor equipped to cope with the size of the horse boxes and horse trailers.

- The increase in large vehicles attending the site at various times throughout the day has created an increase in noise levels for neighbouring properties.
- Retrospective Planning Application: there have been other retrospective planning applications for this site (P/2018/0657 - Construction of menage and P/2022/0153 - application for a lawful development certificate for an existing use – use of land for hard surfacing and parking) This has meant that the neighbouring properties have not had an opportunity to express any concerns prior to the work being carried out.
- The evidence supporting the application is misrepresentative and contradictory.

Local Member

Explains that Mr and Mrs Parker purchased Glebe Farm and the already established equestrian business in the August of 2009. Understands that only at that time was the parking area in question historically been used for the parking of horse boxes and trailers, but also the existing manège was regularly used for the business.

Highways Officer

Advises that visibility from the access to the car park is adequate in both directions.

Recommends that the access is surfaced with hard bond materials for a minimum distance of 5m behind the adjoining carriageway with any gates set back at a minimum of 10m behind the adjoining highway.

Considers that events / competitions could typically attract up to 25 horse trailers and around 10 cars and there is ample space within the car park area to accommodate this number of vehicles.

Public Protection Officer

Advises that lighting has the potential for classification as a statutory nuisance. If lighting is found to be causing a nuisance and abatement notice may be served. The applicant is advised to consider this when designing any lighting.

Ecology Officer

A scheme for net biodiversity benefit should be required by condition.

Natural Resources Wales

Notes the site is within the catchment of the River Dee and Bala Lake SAC. Proposals should be screened through a Habitats Regulations Assessment to determine whether they are likely to have a significant effect the SAC.

The application as submitted is unlikely to increase the amount of phosphorus entering the catchment so is not likely to have a significant effect on the SAC.

No objection to the development.

Neighbours

The owners/occupiers of 3 nearby properties notified 6.6.2022

3 objections received from the same household expressing the following concerns:

- Development carried out without planning permission;
- The land has not previously been used for parking;
- Agent states no new materials are required. This ignores what was laid down before hardcore was laid;
- No discussions took place with neighbours;
- Proposal to move the hard surfacing back 2m will not address noise or loss of privacy.
- Had the owners applied for permission before carrying out work we would have had the opportunity to suggest it was put elsewhere;
- The business has grown substantially;
- Other additional buildings have been built without planning permission;
- Noise;
- Increased traffic levels;
- Overnight use of the parking area by motorhomes.
- Impact on the value of property;
- Other options are available;
- Impact of vehicle headlights.

2 representations in support making the following comments:

- Regular visitor for over 6 years to this fabulous facility;
- Have always used the parking area to the manage. It has always had a form of hard standing to allow vehicle to park;
- Parking area is dry all year round for horse boxes and trailers.

SPECIAL CONSIDERATIONS

Background: Glebe Farm, including the application site, benefits from a planning permission granted in 2006 for use as a livery yard. The approved plans included provision for a manege although this was subsequently replaced by the manege granted planning permission in 2018.

Parking of vehicles by people visiting or employed at the site is ancillary to the livery year use, although the land subject to the current application was not shown as being used for that purpose on the plans approved in 2006. It is therefore unclear whether the land would have routinely been used for parking prior to being hard surfaced. Irrespective of whether the land was previously used as a car park, operational development consisting of the laying of gravel to provide a surface more conducive to the parking of vehicles does require planning permission.

The applicant previously applied for a Lawful Development Certificate (LDC) for the car park but insufficient evidence was provided to conclude that the car park had been constructed 4 or more years ago, which is the time period required to be classed as lawful. The LDC application was refused and no appeal subsequently lodged. Whilst information has been submitted in support of the current application that also seeks to demonstrate that the car park has been in place for in excess of 4 years it does not add anything substantive to the evidence submitted with the LDC application.

In dealing with this application the question before the Council is whether the proposals are acceptable with regard to relevant material planning considerations, not the length of time hard surface has been in place.

It is understood that the car park has been provided mainly for use in conjunction with the manege granted planning permission in 2018. The manege is subject to a separate application (P/2021/1002) to remove a condition that currently prevents it from being used for commercial equine purposes.

Principle of development: There are no UDP policies that specifically deal with development ancillary to existing rural businesses. Matters of highway safety, residential amenity and visual impact are key considerations in this case, with policies PS2 and GDP1 being directly relevant.

Residential Amenity: The nearest property Llybedydd House is approximately 15 metres to the north of the car park with a lane situated in between.

Whilst the car park results in vehicles parking and turning closer to the property than is likely to have been the case previously, the relationship between the two sites is such that it is unlikely that significant levels of noise and disturbance occurs. It is of note that Public Protection Officer has not expressed concerns about noise.

Public Protection have advised that lighting has the potential for classification as a statutory nuisance. However no external lighting is proposed as part of this application. The provision of external lighting would require planning permission separately.

The car park is elevated relative to the ground floor level of Llybedydd House and affords limited views over the front boundary hedge of the property towards first floor windows, as the photographs below illustrate.



The degree of overlooking is such that the proposals are not considered to give rise to a significant loss of privacy particularly when the degree of overlooking already possible from the lane separating to the sites is considered.



There may be instances where vehicles using the car park have headlights facing towards Llybedydd House. The existing boundary hedge fronting that property assists in limiting the impact of this. The manage does not have any external lighting thus limiting its use to hours of daylight. On this basis, arrivals/departures in the evenings are unlikely occur regularly. Furthermore, such impacts would be relatively short in duration and unlikely to give rise to significant disturbance.

In light of the above, the development does not adversely impact upon residential amenity and therefore accords with policy GDP1(f).

Highway Safety: The car park is served by an access that has been formed specifically to serve it. This has adequate visibility in both direction.

Whilst noting comments made by Highways regarding traffic, the car park itself will not generate traffic. As noted above, the car park is intended for use in conjunction with the adjacent manage. The potential for traffic to be generated by the manage is considered separately in the report relating to application (P/2021/1002).

The development ensures off-street parking and turning is provided to visitors to the manege and is large enough to accommodate the parking and turning of vehicles towing horse boxes/trailers.

Having regard to the above, the car park accords with policies GDP1(d) and T8.

Visual Impact: Due to the topography of the surrounding landscape and the hedges and trees enclosing lanes and fields, the car park does not materially or detrimentally effect the countryside or wider rural landscape.

The northern boundary of the site is screened by an existing hedge thus limiting nearby views from the land that runs parallel to it. The majority of the western boundary is screened by a fence which affords views into the site. The development is, however, situated adjacent to the buildings associated with the livery business and appears as an integral part of the wider business premises. Accordingly, the car park does not have a detrimental impact upon the immediately locality. Notwithstanding this, the planting of native species hedge would strengthen the rural character of the west boundary and would also deliver net biodiversity gain.

Ecology: Paragraph 6.4.5 of Planning Policy Wales 11 requires development to provide net benefit to biodiversity. The Applicants have submitted a scheme for net biodiversity benefit that satisfies the requirements of PPW11. The proposals are set out below:

- a) Existing trees, shrubs and hedge plants will be retained.
- b) The car park surface from within the north boundary will be removed (by roughly 5m) to create an area of rough grassland. The width of the grassland area will taper to about 1m wide at the east to allow the continued use of an existing gateway. Bare ground resulting from the removal of the car park aggregate surface will be sown with 'Special General Purpose Meadow Mixture EM3' produced by Emorsgate Seeds. The grassland will be sown and maintained in accordance with the instructions/recommendations provided by Emorsgate Seeds.
- c) The new area of grass within the north boundary and the existing area of grass within the west boundary will not be mown between 1 March and 15 August inclusive. As a minimum, the grass will be mown between 15 August and 1 September and cut vegetation will be removed.
- d) A minimum of 15 native fruit trees of local provenance will be planted within the areas of grass within north and west boundaries. Tree species will include:
 - 3no. Bramley apple (*Malus domestica* 'Bramley's Seedling')
 - 3no. Shropshire Prune Damson (*Prunus insititia* 'Shropshire Prune')
 - 3no. Cherry (*Prunus* sp./var.)
 - 3no. Crab Apple (*Malus sylvestris*)
 - 3no. Pitmaston pineapple Apple (*Malus domestica* 'Pitmaston pineapple')
- e) Gaps within the north boundary hedge will be planted with a mixture of Guelder-rose (*Viburnum opulus*), Field Maple (*Acer campestre*), Hawthorn and Hazel.
- f) A new hedge will be planted along the west boundary. The existing clump of Oak will remain and the new hedge will be planted of Blackthorn, Guelder-rose, Field Maple, Hawthorn and Hazel.
- g) The supplementary planted north boundary hedge and the new west boundary hedge will be (annually) trimmed to a minimum height of 2m.

The implementation of scheme of net biodiversity benefit could be secured by condition.

CONCLUSION

The development is acceptable in respect of highway safety, residential amenity and subject to a condition, visual impact and net gain to biodiversity.

It therefore accords with UDP policies PS2, GDP1 and T8 and paragraph 6.4.5 of Planning Policy Wales 11

RECOMMENDATION: That permission be GRANTED

CONDITION(S)

1. The Star Ecology scheme of Net Biodiversity Benefit reference SP/2836/22/2 dated 22 October 2022 shall be implemented in full in first planting or seeding season following the date of the planning permission hereby granted. The scheme shall thereafter be permanently retained. Any tree or hedgerow which becomes severely damaged or seriously diseased, or is in poor physiological condition or is removed shall be replaced within the next available planting season by trees or hedgerow of the same size and species to those originally required planted.
2. Within 28 days of the grant of this planning permission, the vehicular access serving the car park shall have visibility splays of 2.4 metres x 33 metres to the north and 2.4 metres x 56 metres to the south measured to the centreline of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre in height above the level of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.
3. The car park shall not be used for any purpose other than for the parking and turning of vehicles in conjunction with the use of the manege subject to planning permission P/2021/1002 and the use of the land subject to planning permission P/2006/0686 as a livery yard.

REASON(S)

1. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan and to deliver net benefit to biodiversity in accordance with paragraph 6.4.5 of Planning Policy Wales 11.
 2. To ensure that adequate visibility is provided at the proposed point of access to the highway in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
 3. To protect the amenities of the occupiers of nearby properties in accordance and to ensure the development is not used in a manner that is prejudice to the character and appearance of the rural landscape in accordance with Policies PS2 and GDP1 of the Wrexham Unitary Development Plan.
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