

ITEM NO: 1

WARD NO: Ruthin

APPLICATION NO: 02/2012/0241/ PF

PROPOSAL: Alterations to vehicular access previously granted under Code No. 02/2011/0167 to serve existing dwelling and proposed new dwelling

LOCATION: Land at (Part garden of) Llys Deri Bryn Goodman Ruthin

APPLICANT: Mr R Wilson

CONSTRAINTS: PROW
PD Removed

PUBLICITY UNDERTAKEN: Site Notice - No
Press Notice - No
Neighbour letters - Yes

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Recommendation to grant / approve – 4 or more objections received

CONSULTATION RESPONSES:
RUTHIN TOWN COUNCIL
"No objections."

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES:

HEAD OF HIGHWAYS AND INFRASTRUCTURE:
No objection subject to conditions requiring provision of parking spaces prior to occupation of the dwelling, and details of the vehicular footway crossing.

RESPONSE TO PUBLICITY:

Letters of representation received from:
Mr. P. H. Helm, Hunters Lodge, Bryn Goodman, Ruthin
R. C. Greening, Meriden, Bryn Goodman, Ruthin
Mr. & Mrs. Aiyar, Oaklea, Bryn Goodman, Ruthin
Ruthin Bowling Club, c/o Bryn Goodman, Ruthin
Mr. B. Owen, Owen Devenport, 20, Vale Street, Denbigh (on behalf of Mr. & Mrs. Aiyar)

Summary of planning based representations:

- Impact on highway safety, in terms of additional vehicular movements and safety of access.
- Loss of residential amenity as a result of proximity to Llys Deri.
- Impact on visual amenity through potential harm to trees and hedgerows.
- Questions over accuracy of plans (representation of trees, position of access, scale of plans)

Other matters:
Questions over land ownership
Questions over consultation/notification

EXPIRY DATE OF APPLICATION: 02/05/2012

REASONS FOR DELAY IN DECISION (where applicable):

- Deferral at May 2012 Committee
- additional information received from applicant

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 Members may recall that consideration of the application was deferred at the May 30th 2012 meeting of the Committee. This was to allow Officers to seek clarification of details including information on submitted plans, and to draw attention to land ownership matters raised by third parties.
- 1.1.2 Permission is sought for alterations to an existing vehicular access to allow the access to serve both an existing dwelling and a dwelling which is currently under construction on Bryn Goodman, Ruthin.
- 1.1.3 The works involved include the widening of the existing access serving the dwelling Llys Deri, by approximately 2 metres, and an amended layout for the parking and turning area of the new dwelling granted permission in May 2011.
- 1.1.4 The updated plans showing existing site features close to the entrance to the site, the 2011 approval for a new dwelling and access, and the alterations to the access and parking arrangements are included at the front of the report.
- 1.1.5 The revised plans submitted clarify that one small laburnum tree is to be removed along with a 2 metre section of beech hedge. All other trees within the site are to be retained.

1.2 Description of site and surroundings

- 1.2.1 The site is located in a residential area within Ruthin town. It is located at the top of Bryn Goodman, an un-adopted highway which links Greenfield Road and Rhos Street (A494).
- 1.2.2 The site is bound by an established beech hedge, and there are a number of mature trees present.
- 1.2.3 The area is characterised by a range of dwelling types which access onto Bryn Goodman.

1.3 Relevant planning constraints/considerations

- 1.3.1 None.

1.4 Relevant planning history

- 1.4.1 Permission was granted in May 2011 for a new dwelling to be erected adjacent to Llys Deri. That scheme proposed the access to be separate from the existing access to Llys Deri, by creating a new driveway across land outside the ownership of the applicant (see the plan at the front of the report).
- 1.4.2 Subsequent to the grant of that permission, it is understood the applicant and the land owner have not been able to reach an agreement over rights of access across that land, so the applicant has submitted this current application to gain access by altering Llys Deri's existing access.

1.5 Developments/changes since the original submission

1.5.1 The current scheme originally proposed a gated entrance to the new dwelling, but the gate has been removed, and the drive-way layout has been revised to simplify vehicular movements within and into the site.

1.5.2 Neighbours and objectors have been notified of the additional plans received.

1.6 Other relevant background information

1.6.1 As noted, it would appear that the application has been submitted following the applicant's failure to agree terms with a third party for access across land outside his ownership. An applicant is fully entitled to seek planning permission for an alternative access arrangement. Disputes over land ownership are not matters in which the Council can become involved, and Officers respectfully suggest the application should be considered on its merits with regard to the planning issues covered in section 4 of this report.

1.6.2 Concerns have been raised by residents that construction of the dwelling is under way, but this is not in breach of the 2011 permission. The existing Llys Deri access is being used to enable the works to continue.

2. DETAILS OF PLANNING HISTORY:

2.1 02/2011/0167/PF – Refurbishment, alterations and construction of new vehicular access to Llys Deri, and the erection of 1 no. detached two storey dwelling within the garden area. Granted under delegated powers 16th May 2012

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

3.1 DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)

Policy GEN 1 – Development Within Development Boundaries

Policy GEN 6 – Development Control Requirements

Policy TRA 6 – Impact of New Development on Traffic Flows

Policy ENV 7 – Landscape / Townscape Features

3.2 Supplementary Planning Guidance

None.

3.3 GOVERNMENT GUIDANCE

Technical Advice Note 18 – Transport

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

4.1.1 Principle

4.1.2 Impact upon visual amenity

4.1.3 Highway safety

4.1.4 Impact upon residential amenity

4.2 In relation to the main planning considerations:

4.2.1 Principle

The site is located within the defined development boundary of Ruthin where the general principle of development is acceptable (Policy GEN 1), and there is an extant planning permission for a dwelling on the land to the east of Llys Deri. The overall principle of development of a dwelling is therefore not in question. The issue is the acceptability of the access proposals, and these should be considered on the basis of its impacts upon the amenity of the area and highway safety, as detailed below.

4.2.2 Impact upon visual amenity

Policy GEN 6 contains general criteria which aim to ensure proposals for new development respect the character and appearance of the area within which it is located. In this instance, given the presence of several mature trees, and an attractive established beech hedge, Policy ENV 7 is also of relevance. Policy ENV 7 seeks to retain features such as trees which are of value to townscape character.

The site is located within a residential street which features many vehicular accesses onto it. Notable features which add value to the appearance of the area are the mature trees and the extensive beech hedge along the boundary of the site. The scheme proposes the removal of a small laburnum tree and a 2 metre section of the beech hedge, but the retention of all other trees. The hard standing for the driveway would be located 2 metres from the trunk of an existing tree, and constructed using geotextile construction, (a method which is intended to prevent root compaction and help ensure the longevity of the tree). Additional planting is proposed to the front of the existing dwelling. Concerns are expressed over the potential impact on/loss of trees and hedgerow, and hence on the character of the area.

It is considered that the proposal would have limited impact upon the visual appearance of the existing access or the locality. The retention of the mature trees is welcomed and the method of protection can be subject to control through condition. The additional planting would add value to the appearance of the site and surrounding area. Subject to planning conditions requiring the prior approval of surface materials, protection of the trees, and landscaping, the proposal is considered to comply with Policies ENV 7 and GEN 6 in terms of the impact upon visual amenity.

4.2.3 Highway Safety

Policy GEN 6 and TRA 6 contain criteria which control the impact of new development on the safe and free flow of traffic on the highway. Proposals for development where it can be demonstrated there would be a significant loss of highway safety should be resisted.

The proposal is to extend an existing entrance onto the highway which currently serves one dwelling. The access would be widened by some 2 metres, to facilitate vehicle movement into and out of the site. When exiting the site it is estimated that there would be a visibility distance of approximately 45 metres to the left, and in excess of 70 metres to the right. The proposal has been examined by the Head of Highways and Infrastructure, and no objection has been raised, on the basis that the application is solely for the amendments to an access to serve a dwelling which already has planning permission, hence the principle of additional vehicular movements on Bryn Goodman has already been accepted with the granting of the previous permission. Objectors express concerns over the access proposals, in terms of additional use of an entrance close to a bend, raising highway safety concerns.

In terms of vehicle and pedestrian movements on Bryn Goodman and pressures on the existing road network, Officers would not consider there are reasonable grounds for resisting the particular proposals, given there is already a planning permission in place for the additional dwelling, albeit with a different access arrangement. The proposed parking and turning area would accommodate at least two vehicles in addition to the proposed garage. The 'revised' access to serve two dwellings is on the outside of a bend on Bryn Goodman, at which point the extent of visibility when entering the road would be as detailed in the previous paragraph. Advice on visibility standards is contained in Technical Advice Note 18 which refers to stopping distances for vehicles travelling at different speeds; in this case having regard to the physical condition of the highway at Bryn Goodman (a private road with a

badly broken surface to the west, speed bumps to the south), the narrowing of width and presence of a right angle bend close to the Llys Deri plot, typical vehicle speeds in the vicinity of the site are considered unlikely to exceed 20mph – at which stopping distances would be 45 metres. With respect to concerns expressed, the Highways Officer does not consider there is a basis for refusal here, and it is suggested the proposals are compliant with Policies GEN 6, TRA 6 and TAN 18, and would not have an unacceptable impact on highway safety.

4.2.4 Impact upon Residential Amenity

Criteria v) of Policy GEN 6 seeks to protect the amenity of residents from adverse impacts which may arise from development, such as increased activity, disturbance and noise.

The proposed access to the new dwelling would, at its closest, be 3.5 metres from the porch of the existing dwelling, Llys Deri. An area of approximately 2 metres in front of the porch is proposed to be a planting bed. The driveway would not pass directly in front of any principal windows of Llys Deri. Objectors suggest the driveway arrangements would have an adverse impact on occupiers of the Llys Deri dwelling.

In Officers' opinion, the increase in the amount of vehicular traffic generated by the additional dwelling is not considered likely to result in adverse impact upon the amenity of residents of Llys Deri. The distance between the porch and the drive, with planting between, is considered adequate to limit effects on the occupants of Llys Deri. It is further noted that the owners of Llys Deri are also the applicants, and it is unlikely that they would choose to undertake a form of development that would significantly reduce the marketability of either of their properties. It is considered respectfully that the proposal would not have an unacceptable impact upon the amenity of local residents, and it therefore complies with criteria v) of GEN 6.

4.3 Other matters raised

Land ownership

Correspondence from and on behalf of private individuals living near to the site has raised questions over land ownership. These matters have been drawn to the applicant's attention, and his agent has confirmed that there is no issue concerning third party land ownership in relation to the current application. Third parties have been made aware of this statement. The Local Planning Authority can play no part in civil disputes over ownership, and it is considered that all reasonable attempts have been made to keep the respective parties informed of the particular claims being made.

Accuracy of plans

Various points have been raised in relation to the accuracy and level of detail on the submitted plans/documents, including questions over the scale of plans and representation of site features. The applicants' agent has provided revised drawings which seek to address the matters raised, and interested parties have been sent copies. In Officers' opinion, the level of detail on the plans is adequate to allow consideration of the merits of the application. The actual position of the 'revised' access has been marked out on the site so all parties can take a view on the acceptability or otherwise of the proposals.

5. **SUMMARY AND CONCLUSIONS:**

5.1 With regard to the above considerations, and with respect to the concerns outlined, it is concluded that the proposal would have a limited impact upon the character and

amenity of the area. It is therefore recommended that planning permission is granted.

5.2 The recommendation is subject to the receipt of no additional representations by the 22nd June 2012, raising land use planning matters not already covered in the report or in the late representations sheet, in which case the application would be reported back to the July Committee for reconsideration.

RECOMMENDATION: GRANT - subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. Facilities shall be provided and retained within each plot for the parking of vehicles in accordance with the approved plan and shall be completed prior to the proposed dwelling being brought into use.
3. Full details of the vehicular footway crossing shall be submitted to and approved in writing by the Local Planning Authority before the commencement of works thereon and the access shall be completed in accordance with the approved plans before the dwelling is occupied.
4. None of the trees or hedgerows shown on the approved plans as being retained shall be felled, lopped or topped without the prior written consent of the Local Planning Authority. Any trees or hedgerow plants which die or are severely damaged or become seriously diseased within five years of the completion of the development shall be replaced with trees or hedgerow plants of such size and species to be agreed in writing with the Local Planning Authority.
5. A full planting scheme of new trees, hedgerows, shrubs or vegetation including species, numbers and location shall be submitted to and approved in writing by the Local Planning Authority within one month of the date of this permission, and the approved scheme shall be implemented in full prior to the occupation of the new dwelling.
6. Any of the plants, shrubs or trees comprised in the proposed planting scheme which die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
7. Details of the materials to be used for the driveway surface shall be approved in writing by the Local Planning Authority prior to the laying of the new drive way surface, and the development shall only proceed in accordance with those details.
8. No gates shall be erected within the access/turning/parking areas hereby approved other than with the prior written approval of the Local Planning Authority as to the detailing.

The reason(s) for the condition(s) is(are):-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To provide for the parking of vehicles clear of the highway in the interest of traffic safety.
3. To ensure the formation of a safe and satisfactory access in the interests of highway safety.
4. To safeguard the existing trees and hedges on the site, in the interests of the visual amenities of the locality.
5. In the interest of amenity.
6. In the interest of amenity.
7. In the interest of visual amenity.
8. In the interest of highway safety and residential amenity.

NOTES TO APPLICANT:

Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 3, 4, 5 & 10.
Your attention is drawn to the attached Part N form (New Road and Street Works Act 1991).
Your attention is drawn to the attached notes relating to applications for consent to construct a vehicular crossing over a footway / verge under Section 184 of the Highways Act 1980.