

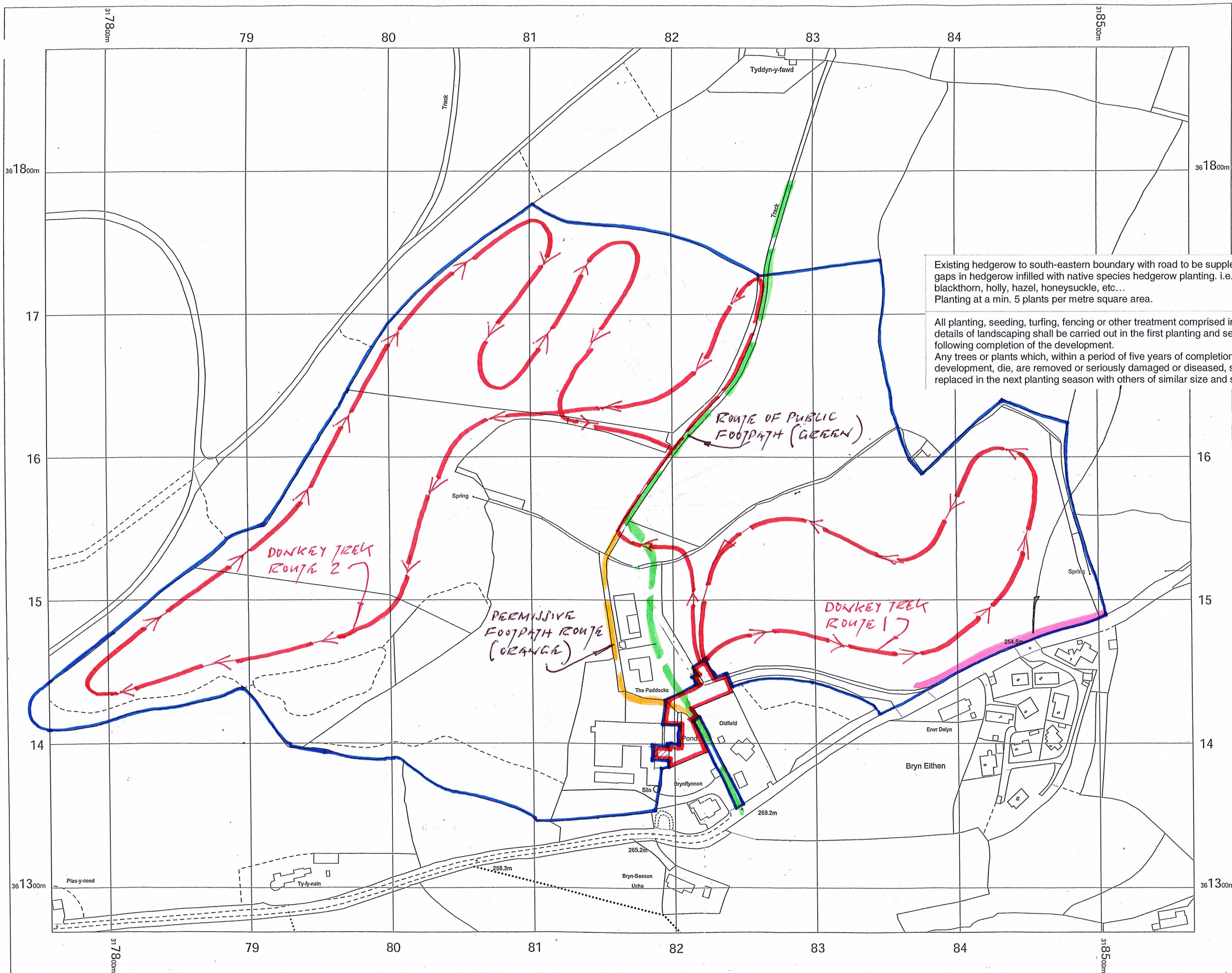
The Paddock, Llanferres, Mold

Plan Ref.
0993/LP



Existing hedgerow to south-eastern boundary with road to be supplemented and gaps in hedgerow infilled with native species hedgerow planting. i.e. hawthorn, blackthorn, holly, hazel, honeysuckle, etc...
Planting at a min. 5 plants per metre square area.

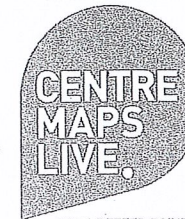
All planting, seeding, turfing, fencing or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following completion of the development.
Any trees or plants which, within a period of five years of completion of the development, die, are removed or seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

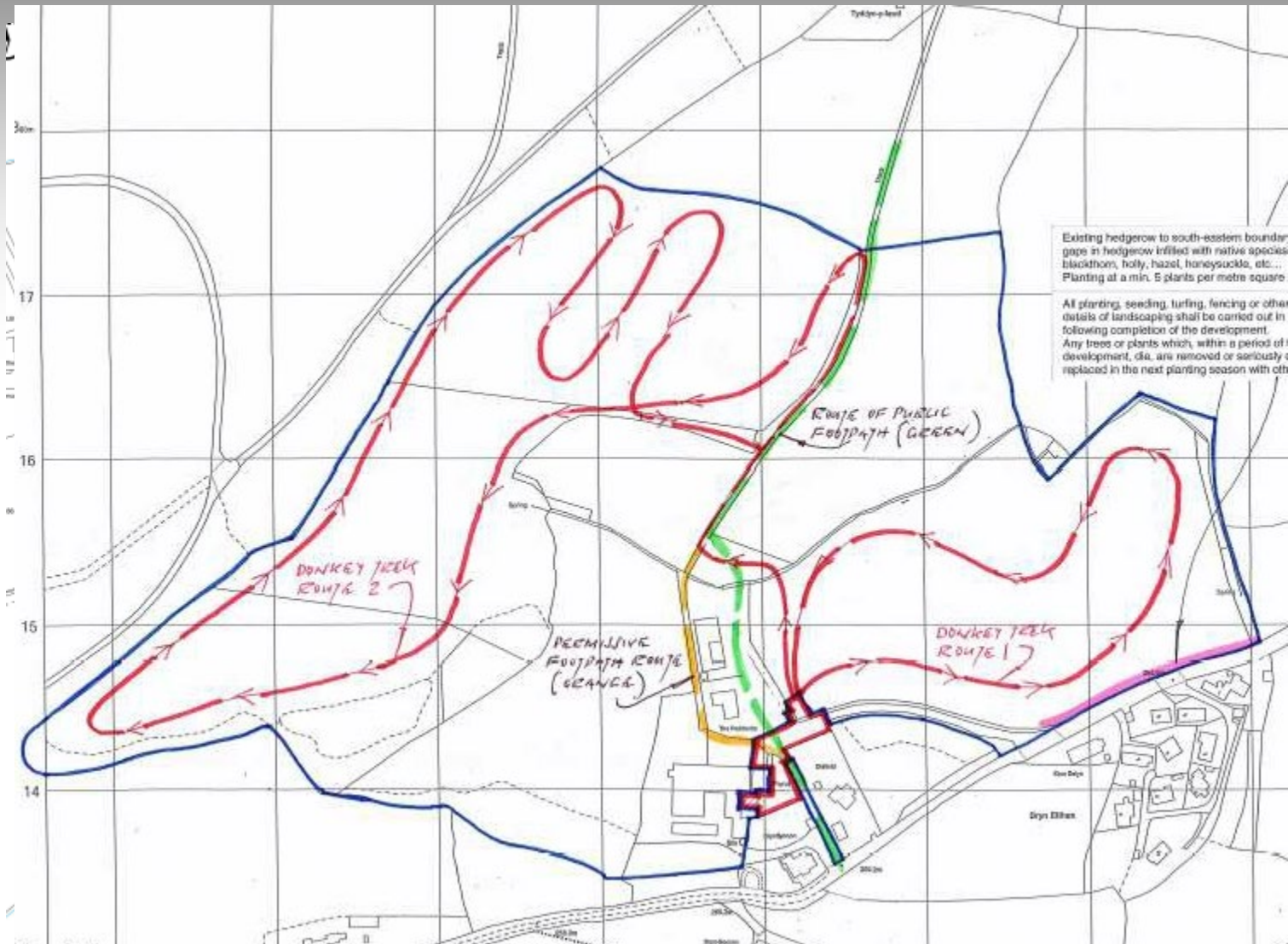


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www.centremapslive.co.uk

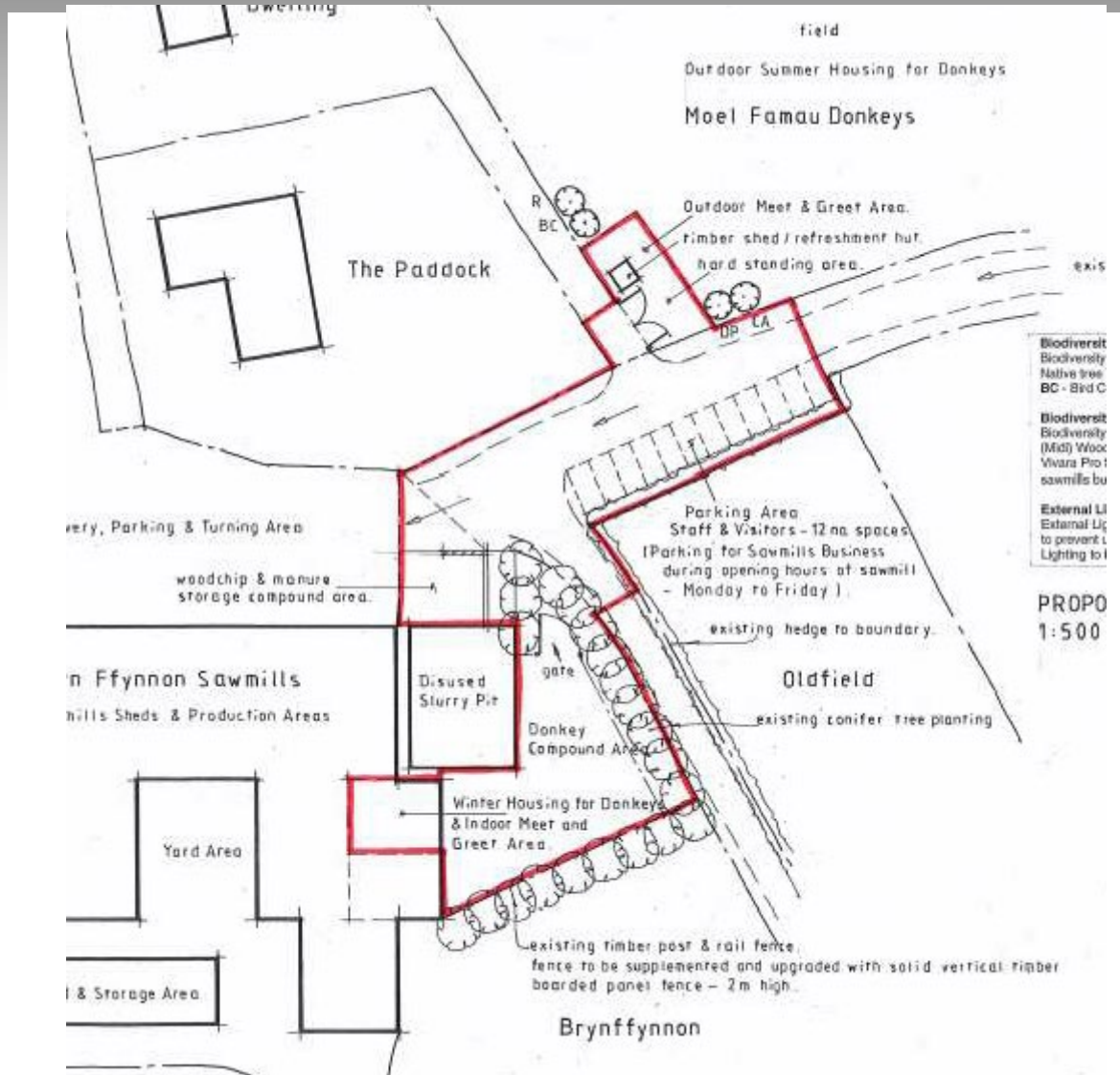
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Location plan showing trek routes



Site plan





WARD : Moel Famau

WARD MEMBER(S): Cllr Huw Williams

APPLICATION NO: 21/2023/0391/ PS

PROPOSAL: Variation of condition 4 of planning permission 21/2022/0980 to allow varied opening hours

LOCATION: The Paddock, Llanferres, Mold

APPLICANT: Mr Matthew Davies Moel Fammau Donkeys

CONSTRAINTS: AONB

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

REASON(S) APPLICATION REPORTED TO COMMITTEE:

Scheme of Delegation Part 2

- Recommendation to grant / approve – Town / Community Council objection

CONSULTATION RESPONSES:

LLANFERRES COMMUNITY COUNCIL-

The Council objects to the opening hours being increase because Councillors are concerned that:

1. the adverse effects on neighbours have not been given due consideration.
2. safety concerns over associated with the danger of children, animals and HGV moving around the same area at the same time. Councillor felt that the applicant could be more specific in what would be taking place at what times. For example that schools would only be using the facility during normal school hours in term time, donkeys would not be walked after 5pm from September onwards when it was dark etc.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

Public Protection Officer-

No objection subject to a condition that the last donkey trek each day should start one (1) hour before the approved time of closing for the short trek experience and two (2) hours before the approved time of closing for the long trek experience. This is to ensure all trekking experiences are completed before the approved hours of operation are exceeded.

There will be a maximum of three (3) donkey treks per day of any duration.

If additional trekking routes are developed, the applicant should apply for permission to allow suitable planning controls to be put in place.

Animal Welfare Officer-

Discussed the actual walking times on the longer 2 hour trek with the applicant and was advised the trek has around 5 stops with a treat for the donkeys at each and rest times up to 20 mins at each stop, so the donkeys are likely to get 45 mins actual walking time. There is also a half an hour introduction before the trek including health and safety and some grooming.

RESPONSE TO PUBLICITY:

In objection

Representations received from:

Paul and Gwenda Jelley, Bryn Ffynnon Farm, Forrestry Rd, Llanferres

Paul Dyson, 1 Bryn Eithin, Tafarn-y-Gelyn

Summary of planning based representations in objection:

Justification

No evidence to back up the need for the extended hours

Safety Issues

Risk assessment inadequate

No sanitation facilities for school parties and private parties

Safety concerns operating near a sawmill and cladding company- no fire safety, lighting, noise, regular HGV movements and trucks.

Visual amenity

The proposal would lead to further detrimental impact on the AONB

Residential amenity

Close to neighbouring properties impacting privacy

Condition 4 was placed on the original permission to protect residential amenity

Increasing hours 8am -8pm will have large effect due to additional noise, lighting pollution until after 8pm

The meet and greet area should be moved away from residential properties

Animal welfare

Welfare of donkeys, rest hours, worked for too long during the day

Donkeys from sanctuaries should not be used for commercial purposes

Noise from children's play area could distress the animals

Highways

The site cannot accommodate parking for buses or coaches

Large groups of more than 12 cannot participate under condition 5.

Conflict with public footpath users

In support

Representations received from:

Alan Pimblett, Tyddyn Y Fawd, Forestry Road, Llanferres James Smith, Bryn Saeson Ucha,

Forestry Rd, Llanferres

Summary of planning based representations in support:

Support varied opening hours.

EXPIRY DATE OF APPLICATION: 01/08/2023

EXTENSION OF TIME AGREED: Yes 06/09/2023

REASONS FOR DELAY IN DECISION:

- additional information required from applicant
- awaiting consideration by Committee

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 A variation of condition 4 of planning permission 21/2022/0980 is sought to allow varied opening hours of previously approved change of use of land and part of building to donkey trekking business at The Paddock, Llanferres.

The proposed opening hours have been amended from the originally submitted application and now include:

Monday to Friday 9.30am to 8pm (previously approved 5pm to 8pm)

Saturdays 10am- 8pm (previously approved 10am to 3pm & 5pm to 8pm)

Sundays & Bank Holidays 10am-5pm (previously approved 10am to 5pm).

The site shall only operate between 1st April to 31st December as approved.

The reason for the increase in daytime opening hours is to cater for the demand received from schools and colleges wishing to visit the site during the day which have been evidenced in various email enquiries.

1.2 Description of site and surroundings

- 1.2.1 The site is located to the east of Moel Famau Country Park and is within the Area of Outstanding Natural Beauty (AONB).
- 1.2.2 On the site already there is a sawmill and timber production yard and two dwellings (occupied by the applicant and their parents).
- 1.2.3 The site directly adjoins two other dwellings in separate ownership and there are other properties adjacent to the site.
- 1.2.4 A Public Right of Way crosses the site.

1.3 Relevant planning constraints / considerations

- 1.3.1 The application site is located within the open countryside. The site is located within the Area of Outstanding Natural Beauty.
- 1.3.2 The site is located within the Phosphate Sensitive Catchment (River Dee and Bala Lake Special Area of Conservation).
- 1.3.3 Public Right of Way 522/6 crosses the application site.

1.4 Relevant planning history

- 1.4.1 The original planning application for the donkey trekking business was approved at Planning Committee on 15/02/2023. The proposals involved the use of a disused agricultural building for the winter housing of 6 donkeys and for indoor meet and greet with the donkeys and the use of a hut for refreshments.
- 1.4.2 The fields around the property would be used for the donkey guiding/ trekking. There are two routes – route 1 which is a shorter trek and route 2 which is a longer trek.
- 1.4.3 The sessions include a meet and greet with the donkeys in the inside winter housing, where visitors have a safety briefing and can meet the donkeys in a

calm quiet environment before they are led out onto their chosen trek route. There are 6 donkeys and parties of up to 12 people per trek.

- 1.4.4 The site is operating between 1st April to 31st December each year and is currently open weekday evenings from 5.30pm till 8pm, Saturdays 10am to 3pm & 5pm to 8pm. On Sundays and Bank Holidays the site is currently allowed to open 10am to 5pm.

1.5 Development / changes since the original submission

- 1.5.1 Submission of group visit risk assessment and standard operating procedure.
1.5.2 Confirmation of daily operations and number of treks per day.
1.5.3 Amendment of requested opening time to 9.30am Monday to Friday and 10am on Saturdays as advised by the Public Protection Officer.

1.6 Other relevant background information

- 1.6.1 None

2. DETAILS OF PLANNING HISTORY:

2.12.1 31/13639 Use of Agricultural Building For Processing/ Treatment Of Raw Timber. GRANTED 24/12/1993.

2.2 21/2004/1077 Application for Certificate of Lawful use of existing use of land for the storage of round and square timber. REFUSED 26/04/2005.

2.3 21/2007/0915 Continuation of use of land and buildings in connection with sawmills business. GRANTED 07/11/2007.

2.4 21/2007/1537 Details of signs submitted in accordance with condition number 5 of Retrospective Planning Permission 21/2007/0915/PC. GRANTED 11/05/2009.

2.5 21/2011/1506 Construction of a new vehicular access and driveway. GRANTED 27/03/2012.

2.6 21/2012/0956 Continuation of use of agricultural land as extension to curtilage of the Existing sawmills business for storage of incoming round log timbers and for additional vehicle turning purposes (Retrospective). GRANTED 12/09/2012.

2.7 21/2012/1268 Details of landscaping scheme submitted in accordance with condition Number 2 of planning permission 21/2012/0956/PC. GRANTED 02/10/2012.

2.8 21/2014/0360 Change of use of part of existing agricultural building and rear yard area to sawmill business use, erection of a dry wood storage building and retention of staff car parking (partly retrospective). GRANTED 30/07/2014.

2.9 21/2014/0427 (i) Installation of 2 no. biomass boilers to serve existing sawmill business And dwelling (ii) Erection of dry wood storage building. GRANTED 30/07/2014.

2.10 21/2014/1305 Details of boundary fencing and planting submitted in accordance with condition number 7 of planning permission 21/2014/0360/PF. GRANTED 21/11/2014.

2.11 21/2015/0213 Erection of ancillary domestic building. GRANTED 24/04/2015.

2.12 21/2015/0757 Details of track surface submitted in accordance with condition number 2 Of planning permission 21/2011/1506. GRANTED 31/07/2015.

2.13 21/2019/1032 Erection of an extension to existing domestic ancillary building, formation Of access track to serve the domestic ancillary building and associated works (partly retrospective). Withdrawn 05/10/2020.

2.14 21/2021/0230 Change of use and extension of existing domestic ancillary building to form one Rural Enterprise Dwelling, formation of access track associated works (partly retrospective).GRANTED 16/06/2021.

2.15 21/2022/0980 Change of use of land and part of building to form donkey trekking business and associated works (partly retrospective) GRANTED at Planning Committee on 15/02/2023

3. RELEVANT POLICIES AND GUIDANCE:

Local Policy/Guidance

The main planning policies and guidance are considered to be:
Denbighshire Local Development Plan (adopted 4th June 2013)

Policy PSE5 – Rural economy

Policy VOE2 – Area of Outstanding Natural Beauty and Area of Outstanding Beauty

Supplementary Planning Guidance

Supplementary Planning Guidance Note: [Clwydian Range and Dee Valley Area of Outstanding Natural Beauty](#)

Supplementary Planning Guidance Note: Planning for Dark Skies – SPG for lighting in the [Clwydian Range and Dee Valley Area of Outstanding Natural Beauty](#)

Government Policy / Guidance

Planning Policy Wales Edition 11 (February 2021)

Future Wales – The National Plan 2040

Development Control Manual November 2016

Technical Advice Notes

TAN 5 Nature Conservation and Planning (2009)

TAN 6 Planning for Sustainable Rural Communities (2010)

TAN 13 Tourism (1997)

TAN 23 Economic Development (2014)

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. It advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned.

The DMM further states that material considerations can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Section 9.4).

The DMM has to be considered in conjunction with Planning Policy Wales, Edition 11 (February 2021) and other relevant legislation.

Denbighshire County Council declared a climate change and ecological emergency in July 2019. In October 2020 the Council approved an amendment of its Constitution so that all decisions of the Council now have regard to tackling climate and ecological change as well as having regard to the sustainable development principles and the well-being of future generations.

The Council aims to become a Net Carbon Zero Council and an Ecologically Positive Council by 31 March 2030. Its goal and priorities are set out in its Climate and Ecological Change Strategy 2021/22 to 2029/30. The actions, projects and priorities in the Strategy directly relate to council owned and controlled assets and services. One priority of the Strategy is to promote the existing policies within the Local Development Plan (LDP) 2006 to 2021 and

Supplementary Planning Guidance (SPG) which contribute to environmentally responsible development. In preparing these reports to determine planning applications we therefore highlight the LDP 2006 to 2021 and appropriate SPG. Applications that are determined in accordance with the LDP 2006 to 2021 are environmentally responsible developments.

Planning applications are assessed in accordance with statutory requirements including The Environment (Wales) Act 2016, national policy (Future Wales, PPW 11) and local policy (LDP 2006 to 2021) and therefore they are assessed with regard to tackling climate and ecological change which is a material consideration.

The following paragraphs in Section 4 of the report therefore refer to all statutory requirements, policies and material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

3.1.1 Principle

3.1.2 Residential amenity

3.2 In relation to the main planning considerations:

3.2.1 Principle

The application is made under Section 73 of the Town and County planning Act 1990 (the 1990 Act).

Section 73 allows applications to be made for planning permission without complying with conditions previously imposed on an extant planning permission. Where a Section 73 application is granted, its effect is to grant a new planning permission.

Section 73 applications can be broadly separated into three different application types, based on their intended purpose. These are to:

- extend the time limit of an existing permission (commonly referred to as a 'renewal' application)
- allow 'minor material amendments' to planning permissions
- allow the variation or removal of any other condition attached to a planning permission.

This application is to vary the wording of the planning condition 4 of permission 21/2022/0980 to include amended/increased opening hours for the donkey trekking business. This is proposed to allow school groups and colleges and other groups to visit during the day. Evidence in the form of email enquiries for weekday, daytime experiences have been included with the application.

Condition as approved:

4. The site shall not be open for visitors to the donkey trekking business outside the hours:

Mondays to Fridays - 5pm to 8pm.

Saturdays - 10am to 3pm & 5pm to 8pm.

Sundays & Bank Holidays - 10am to 5pm.

The site shall only operate between the 1st April to 31st December.

Proposed opening hours amendments now sought:

Mondays to Fridays – 9.30am to 8pm.

Saturdays – 10am to 8pm.

Sundays & Bank Holidays - 10am to 5pm.

The site shall only operate between the 1st April to 31st December

The proposal to vary the wording of the condition is considered to be acceptable in principle subject to an assessment of the localised impacts.

3.2.2 Residential amenity

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The residential amenity impacts of development should therefore be regarded as a potential material consideration.

The Community Council and neighbours raised have concerns regarding the potential for noise and privacy impacts upon residential amenity from increasing the opening hours.

The proposed amended opening hours have been discussed with the Public Protection Officer and the Animal Welfare Officer. The daily operations of the business would involve a maximum of 3 donkey treks across 2 routes; a shorter 1 hour route and a longer 2 hour route, including one trek in the morning, one in the afternoon and one in the evening but only until the light allows. This time also includes an introduction 'meet and greet', health and safety brief and time for grooming.

The current permitted weekday opening hours are from 5pm to 8pm Monday to Friday which would allow time for one donkey trek in the evening. Increasing these hours to 9.30am to 8pm would allow for an additional 2 treks during the day and it is Officers opinion that this is not considered to raise unacceptable residential amenity concerns such as noise disturbance. The Public Protection Officer has advised that all trekking activities should be completed before the approved hours of operation are exceeded. This would mean that the last donkey trek each day should start 1 hour or 2 hours before 8pm depending on which route is to be taken. Officers consider that the wording of the original condition should ensure all trekking experiences are completed before the approved hours of operation are exceeded and the suggested condition is unnecessary and unreasonable. Officers, however agree that planning permission should be applied for if additional trekking routes are developed so that suitable controls can be put in place to protect the amenity of the occupiers of adjacent properties.

The originally submitted opening times were to start at 8.30am, however Public Protection Officers have advised that this time is too early as most animal attractions in North Wales, including Manorafon Farm and The Welsh Mountain Zoo, do not open their doors till 9.30am. The opening hours have therefore been amended to reflect this recommendation and Officers consider 9.30am to be a reasonable opening time for a business of this nature during the week and 10am on weekends.

The meet and greet takes place within the donkey stables and noise levels are to be kept low so as not to agitate the donkeys which would be monitored by the staff. The treks then take place across the fields away from the neighbouring properties. Having regard to the fact that the site is open till 8pm Monday to Friday as approved, Officers consider that the earlier opening time and an additional 2 treks per day during the week would not unacceptably impact on the amenity of the occupiers of adjacent properties. Officers consider the level of noise would be no greater than that of a group of walkers.

In terms of weekends, the business is permitted to be open on Saturdays 10am-3pm and 5pm- 8pm. Officers consider an additional 2 hours of opening during the middle of the day to be acceptable. Sunday opening hours are to remain as existing.

Overall, it is considered that the increase in opening hours of the business would not result in unacceptable impacts on the amenity of nearby occupiers. The additional 2

treks per day during the week are considered to have intermittent impacts which would not result in a level of noise disturbance which Officers would consider would warrant a refusal of permission on these grounds. However, should a statutory noise nuisance complaint be received in the future, there is separate legislation which will deal with this. It is therefore considered that the revised opening hours would be acceptable and the amendment to condition 4 is recommended for approval.

Other Matters

Animal Welfare

The applicant has advised that maximum number of donkey treks per day would be 3, one in the morning, one in the afternoon and one in the evening (when conditions and light are suitable for walking).

The Animal Welfare Officer discussed the actual walking times on the longer 2 hour trek with the applicant and was advised the trek has around 5 stops with a treat for the donkeys at each and rest times up to 20 mins at each stop, so the donkeys are likely to get 45 mins actual walking time. There is also a half an hour introduction before the trek including health and safety and some grooming.

Overall, having taken the advice Animal Welfare Officer, it is not considered varying the opening hours would result in an unacceptable impact on the welfare of the donkeys. Animal welfare is covered by separate legislation to Planning and will be monitored by appropriate licenses.

Well – being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has taken into account the requirements of Section 3 'Well-being duties on public bodies' and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015. The recommendation is made in accordance with the Act's sustainable development principle through its contribution towards Welsh Governments well-being objective of supporting safe, cohesive and resilient communities. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

5. SUMMARY AND CONCLUSIONS:

5.1 The variation of condition is considered acceptable and is recommended for grant.

RECOMMENDATION: APPROVE - subject to the following conditions:-

1. The development to which this permission relates shall be begun no later than 6th September 2028.
2. The development hereby permitted shall be carried out in strict accordance with details shown on the following submitted plans and documents unless specified as otherwise within any other condition pursuant to this permission
 - (i) Location Plan (Drawing No. 0993/LP) - Received 24 January 2023
 - (ii) Existing Site Layout Plan (Drawing No. 0993/1 Rev A) - Received 24 January 2023
 - (iii) Proposed Site Layout Plan (Drawing No. 0993/2 REV C) - Received 24 January 2023
 - (iv) Existing & Proposed Floor Plans (Drawing No. 0993/3) - Received 14 November 2022
 - (v) Business Plan - Received 14 November 2022

(vi) Planning Justification Statement REV A - Received 13 December 2022
(vii) Timber Shed/ Refreshments Hut (Drawing 0993/4) - Received 13 December 2022

3. Should the use of the site cease for the donkey trekking business; the refreshments hut and field structures shall be removed from the land within 6 months of the date of the cessation of the use and the land shall be restored to the satisfaction of the Local Planning Authority.
4. The site shall not be open for visitors to the donkey trekking business outside the hours:
Mondays to Fridays - 9.30am to 8pm.
Saturdays - 10am to 8pm.
Sundays & Bank Holidays - 10am to 5pm.
The donkey trekking business shall only operate between the 1st April to 31st December.
(Condition varied under ref. 21/2023/0391 dated 6/9/2023)
5. Only one meet and greet or donkey trekking session shall be run at any one time and each session shall be limited to a maximum of 6 donkeys and maximum of 12 participants.
6. The refreshments hut shall only be for customers of the donkey trekking business and shall only be open during the hours which donkey trekking sessions are permitted to take place.
7. Prior to the use of the development hereby permitted details of litter bins shall be submitted to and approved in writing by the Local Planning Authority and the details approved shall be implemented and retained at all times unless otherwise agreed in writing by the Local Planning Authority.
8. The development hereby approved shall be carried out in strict accordance with the biodiversity enhancement measures set out on Proposed Site Layout Plan (Drawing No. 0993/2 REV C) prior to the commencement of the use.
9. All planting, seeding or turfing comprised in the approved details of landscaping (Proposed Site Layout Plan (Drawing No. 0993/2 REV C) and Location Plan (Drawing No. 0993/LP)) shall be carried out no later than the first planting and seeding season following the occupation of the first unit. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The boundary hedge shall be grown to and maintained at a height of a minimum of 2meters.
10. Prior to the commencement of the use hereby approved, a 2 meter high fence shall be erected along the eastern and southern boundary (within the conifer hedge) of the donkey compound area. There will be no gaps at the bottom of the boards and the boards will overlap so that at all times there are no gaps between them. The density of the wood will be 25kg/m sq or above.
11. No external/ internal lighting shall be permitted to be installed or operated, including emergency / security lighting, until the written approval of the Local Planning Authority has been obtained to the details thereof to include light spillage details which should be designed to avoid negative impacts on bats. The scheme shall be carried out strictly in accordance with the approved details.
12. Notwithstanding the submitted details, a manure management plan shall be submitted to and agreed in writing 2 months of the date of this permission, and the disposal of manure shall only be carried out in strict accordance with the details as approved.
Condition approved by application 21/2023/0263 (dated 3 July 2023)
13. Notwithstanding the submitted details, no additional trekking routes other than those shown on the Location Plan (Drawing No. 0993/LP) as approved, shall be used or developed without prior written approval of the Local Planning Authority.

The reasons for the conditions are:

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and to ensure a satisfactory standard of development.
3. In the interest of landscape and visual amenity of the Area of Outstanding Natural Beauty.
4. In the interest of residential amenity.
5. For avoidance of doubt to control the level of activity and in the interest of highway safety
6. For avoidance of doubt to control the level of activity and in the interest of highway safety
7. In the interest of visual and residential amenity
8. In order to maintain and enhance biodiversity.
9. In the interest of visual amenity and enhancing the biodiversity of the area.
10. In the interest of visual and residential amenity.
11. To ensure the favourable conservation status of protected bat species and to protect the Area of Outstanding Natural Beauty's Dark Skies.
12. In the interest of residential amenity.
13. In the interest of residential amenity