

## **PREFACE ITEM**

APPLICATION NO. 18/0123/FULL

APPLICANT(S) NAME: Studio Developments Ltd

PROPOSAL: Construct three dwellings and external works

LOCATION: Land At Grid Ref 321036 188882 Rhyd Y Gwern Lane (South Of Clos Trefeddyg) Machen

The above planning application for the construction of three detached dwellings on land to the south of Clos Trefeddyg in Machen was reported to Planning Committee on 20th June 2018 with a recommendation for approval subject to conditions. A copy of the previous report is attached as an Appendix.

At the meeting, an amendment was moved and seconded that the application be deferred to allow Officers to produce reasons for refusal on the basis that members were of the opinion that the development was unacceptable due to an adverse impact on vehicle, pedestrian and cyclist safety and also because of the detrimental impact on existing residents amenity resulting from access arrangements during the construction phase.

For the reasons outlined in the original officer's report it remains the recommendation that the application be approved.

RECOMMENDATION – That planning permission be GRANTED subject to the conditions contained in the original report. However, if Members are minded to refuse the application, the following reasons are suggested:

1. The proposed development by reason of the position and limited width of the proposed access which lies adjacent to existing boundary treatments and parking areas of 11 and 12 Clos Trefeddyg, would harm vehicular, pedestrian and cyclist safety contrary to criteria A and B of Policy CW3 of the Caerphilly County Borough Local Development Plan up to 2021 (Adopted November 2010).
2. The proposed development requires significant construction traffic movements and would by reason of the location and limited width of the site's vehicular access, have an unacceptable detrimental impact upon the amenity of the existing residents of Clos Trefeddyg, contrary to criteria A of Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021 (Adopted November 2010).

| Code No. and Date Received | Name and Address of Applicant  | Description and Location of Proposed Development   |
|----------------------------|--|--|
| 18/0123/FULL<br>05.02.2018 | Studio Developments Ltd<br>C/o CLC<br>The Design Office<br>19 Heol Y Deri<br>Rhiwbina<br>Cardiff<br>CF14 6HA | Construct three dwellings and external works<br>Land At Grid Ref 321036 188882<br>Rhyd Y Gwern Lane<br>(South Of Clos Trefeddyg)<br>Machen |

**APPLICATION TYPE:** Full Application

### SITE AND DEVELOPMENT

Location: Land At Grid Ref 321036 188882, Rhyd Y Gwern Lane, (South Of Clos Trefeddyg), Machen.

Site description: The application site is an irregular shaped land parcel of mainly grassland (circa 0.85ha) located outside but adjacent to the southern boundary of the defined settlement boundary for Machen. The application site is adjacent to an existing housing development of detached dwellings (Clos Trefeddyg) which lies to the north-west with a public footpath adjacent. Numbers 7, 9, 11 and 12 Clos Trefeddyg are adjacent to the application site. To the northern side of the site is an area of woodland subject to a Tree Preservation Order. To the south-west side boundary is hedgerow dividing the application site from Rhyd Y Gwern Lane. The eastern rear boundary is comprised of hedgerow which divides the site from a neighbouring field.

Development: Construct three dwellings and external works.

Plot 1 is a five bedroom detached property with bedroom, shower room, study, utility, garage, kitchen/dining and living room area on the ground floor. At first floor level there is a master bedroom with dressing area and ensuite, two other bedrooms with shared Jack and Jill ensuite, a separate bedroom and bathroom.

Plot 2 is a detached property is a five bedroom detached property with bedroom, shower room, study, utility, garage, kitchen/dining and living room area on the ground floor. At first floor level there is a master bedroom with dressing area and ensuite, two other bedrooms with shared Jack and Jill ensuite, a separate bedroom and bathroom.

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Plot 3 is a detached property is a five bedroom detached property with bedroom, shower room, study, utility, garage, kitchen/dining and living room area on the ground floor. At first floor level there is a master bedroom with dressing area and ensuite, two other bedrooms with shared Jack and Jill ensuite, a separate bedroom and bathroom.

Dimensions:

Plot 1 - House and Garage is 19.2 metres by 12.8m wide (Maximum extent) with an overall height of 7.9m.

Plot 2 - House and Garage is 19.5 by 9.8m (Maximum extent) with an overall height of 7.9m.

Plot 3 - House and Garage is 16.5 by 15m (Maximum extent) with an overall height of 7.7m.

Materials:

Walls: White render with cedar boarding.

Roof: Single ply membrane with sedum roof.

Ancillary development, e.g. parking: On plot parking.

PLANNING HISTORY 2005 TO PRESENT

None.

POLICY

LOCAL DEVELOPMENT PLAN Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010.

Site Allocation: The site lies outside the defined settlement boundary.

Policies: CW2 (Amenity), CW3 (Highways), CW6 (Trees, Woodland and Hedgerow Protection), CW10 (Leisure and Open Space Provision), CW11 (Affordable Housing Planning Obligation), SP3 (Development Strategy - Development in the Southern Connections Corridor), SP4 (Settlement Strategy), SP5 (Settlement Boundaries), SP6 (Placemaking), SP10 (Conservation of Natural Heritage), and SP14 (Total Housing Requirements).

NATIONAL POLICY Planning Policy Wales, Technical Advice Note 12: Design.

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SUPPLEMENTARY PLANNING GUIDANCE

Supplementary Planning Guidance note LDP6 (Building Better Places to Live).

ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

Was an EIA required? No.

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? The application site is partially within a High risk area, and so it is intended to attach an informative note about mining conditions in the area.

CONSULTATION

Bedwas, Trethomas & Machen Community Council – Raises concern about access.

The Coal Authority - No objection subject to planning condition requiring a site investigation to address Coal mining legacy issues.

Ecologist - Habitats and Vegetation - Notable Species  
Native bluebell, a local and declining species was found to be present in the hedgerows on the site.

Notable Habitats

The site contains native hedgerows and also lies immediately adjacent to an offsite native woodland compartment, both of which are listed under Section 7 of the Environment (Wales) Act 2016 as habitats of principal importance for the conservation of biodiversity of Wales.

Native Hedgerow

A native hedgerow forms the south eastern site boundary. This hedgerow can be considered to have high local value. It fulfils its historic function as an effective field boundary and has an associated bank and ditch along its length. It comprises a total of eight native woody species and may possibly attain the status of an "important hedgerow" as defined by the Hedgerow regulations 1997. Native bluebell was recorded in both the native and non-native hedgerows. The hedgerow trees are likely to provide nesting opportunities for common bird species and may also support roosting bats.

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Common reptiles and amphibians may also shelter, forage and hibernate within the earth bank among the roots.

## Non Native Hedgerow

The south western boundary also comprises a densely planted conifer hedge and associated earth bank but the main species is Lawson's Cypress. The roadside bank found a number of semi natural woodland indicator species.

## Ruderal Vegetation

Tall, coarse species such as docks and thistles are scattered throughout the site, but are particularly frequent in areas which have suffered from past ground disturbance.

## Marshy Grassland

The central area of the site comprises marshy grassland, which grades into neutral grassland away from the centre. The area of marshy grassland can be seen to have increased in comparison to the site habitats in 2008.

## Species Poor Semi Improved Natural Grassland

This habitat is present around the edges of the site surrounding the patch of marshy grassland.

## Barge Ground / Ephemeral Species.

The partly gravelled public footpath which runs along the fence line at the north western site perimeter supports ruderal and ephemeral pioneer species. The intensively shaded area at the site entrance is bare in places but otherwise supports low growing species.

## Non Native Invasive Species

Himalayan Balsam has become established within the grassland as scattered individual plants near the topsoil mound. This species is listed on Schedule 9 of the Wildlife and Countryside Act (as amended) and as such it is an offence to cause it to spread in the wild either 'recklessly' or 'deliberately'. Japanese knotweed was recorded in the 2008 survey in several locations, but was not seen in the recent survey.

## Bats

Most of the trees on site appeared unsuitable for occupation by bats with the exception of some oaks on the south eastern site boundary, which had Potential Roost Features (PRF's) such as broken upper limbs and a sycamore which had a large cavity at the base. These were assessed as Category 2B as they had very few potential roost features. Other larger trees elsewhere did not appear to support these features. A Bat Activity Survey was undertaken on the 16th June 2008 by DCE found foraging over the site by three species of bat: Common pipistrelle, a myotis which was attributed to the Whiskered/Brandt's group and Noctule. No bats were suspected as having emerged

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from the trees on the site, which were not assessed as being exceptional regarding bat roosting potential at the time. The grassland habitat on the site and adjacent woodland are highly suitable as a foraging resource for bats, while the boundary hedgerows provide shelter during commuting.

#### Otter

Otter is well established on the River Rhymney, with existing records from approximately 230m away from the site there are no habitat present on the site which would support this species and it is unlikely to occur on the site unless it was a casual incursion.

#### Dormouse

A detailed nest tube survey was undertaken in 2008 by DCE. No evidence of dormouse was found on the site at the time. A nut search was also carried out within areas of hazel during the present survey in 2017, but no evidence was found to indicate its current presence on site. Although the eastern boundary hedge and adjacent woodland could potentially support this species and there is some degree of connectivity with the wider countryside where this species is established. It is not considered necessary to carry out future surveys for dormouse, provided that the proposed new tree planting is implemented in full, which would provide a natural buffer between the new development and the retained semi natural habitats. This area should not be open to public access or be incorporated into the gardens.

#### Badger

Badger has been recorded approximately 500m from the site in recent years and appears to be well established to the north and south east of the site. there was no evidence that this species was present on site although the habitats are suitable to provide a foraging resource. The adjacent woodland could potentially provide a location for a sett, although they are close to human habitation.

#### Other Mammal Species

A range of common and ubiquitous mammals are likely to occur on site, including species such as rabbit, mice, voles and shrews, etc. these are likely to comprise a mixture of resident species such as brown rat, bank vole or house mouse as well as casual visitors such as fox.

#### Birds

The survey recorded eight species of bird, either on site or flying over it, namely wood pigeon, blackbird, chaffinch, carrion crow, blue tit, green woodpecker, robin and coal tit. It is likely that a few of these species may nest on site. It is also likely that song thrush and dunnock may also potentially nest on the site.

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## Reptiles

No reptiles were seen on site during the survey, but the grassland, soil mounds and hedge banks have the potential to support these species. The scattered wooden debris which was lying on the grassland near the homes may also act as a potential refugia, but only slugs were found beneath when lifted on this occasion. Local recent records of reptiles within the search boundary include common lizard, slow worm, grass snake and adder.

## Amphibians

No common amphibians were found on site during the survey, but the grassland and hedge banks could potentially provide shelter and foraging opportunities for these species. Although there are no waterbodies on site for breeding, it is likely that common frog and toad and palmate and smooth newt do occur on the site and also within the surrounding habitats. There are recent records for common frog and toad, palmate newt and smooth newt in the site vicinity, mainly from gardens. There are no records of the rare and specially protected great crested newt anywhere within 1km of the site.

## Invertebrates

No pre-existing records of invertebrates for within the search boundary. A range of common and ubiquitous invertebrates were seen on site during the survey, namely tortoise shell butterfly, a caterpillar of the buff tip moth, a dung beetle, common garden snail and yellow meadow ant. Overall the site is assessed as being likely to support a wide range of common and ubiquitous invertebrates associated with marshy grassland and neutral grassland, ruderal vegetation and woodland.

The development proposal is a low impact housing development of two or three residential dwellings with associated infrastructure, gardens, etc. a band of new native woodland is to be planted at the rear of the site, to link the offsite woodland compartment.

Senior Engineer (Land Drainage) - Offers no objection to the development, highlights that the site is situated within an area susceptible to groundwater flooding. Recommends a planning condition requiring details of surface water/land drainage be attached to any permission.

Head Of Public Protection - Environmental Health have no objection subject to conditions on contamination.

Senior Arboricultural Officer (Trees) - Offers no objection to the development subject to the submission of Tree Protection Plan.

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CCBC Housing Enabling Officer - Advises that a commuted sum for off-site affordable housing for the development is £81,014.

Landscape Architect - Offers no objection to the development. Highlights that Tree and hedgerow protection and retention will be vital to help retain the rural character of this edge-of-village location. Recommends that further details are obtained in respect of Landscaping and Tree Protection measures.

Transportation Engineering Manager - No objection subject to planning condition addressing detailed highway considerations.

Dwr Cymru - No objections.

Rights Of Way Officer - There is one Public Right of Way: Footpath 6 in the Parish of Rhydygwern in the area of the proposed development.

There is no objection subject to the following:

The access is shown to cross the public right of way. The levels of the public right of way are not to be altered where the public right of way crosses the access road. Details of the construction to be submitted prior to work commencing;

The footpath if bounded on both sides is to be a minimum of 1.8m wide, and the use of close boarded fence adjacent to the footpath to be limited especially on blind corners to protect the safety of the public using the public right of way;

The path must be protected during construction and remain open and usable at all times, unless a Temporary Traffic Regulation Order is in place.

Strategic & Development Plans - The site is a greenfield site outside of the settlement boundary in the Southern Connections Corridor as defined in the LDP, where the strategy promotes development on previously developed land rather greenfield sites. On this basis, the proposal is not considered to accord with the strategy of the LDP. This conflict with policy needs to be weighed up against other material considerations, including the 5 year land supply. The recent appeal decisions for larger greenfield sites in the same strategy area have seen significant weight afforded to the shortfall in housing, with the sustainability of the location and harm to the surroundings being key factors.

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Whilst Machen is a small village, it is recognised as having a residential function and is served by key facilities including a library, school and shops and bus route. Whilst this site is on the edge of the settlement, it is a logical extension and would be considered to be a sustainable location.

On balance, there is no policy objection to the proposed development subject to all relevant technical considerations being met.

Natural Resources Wales - No objection.

CADW - There are no scheduled monuments or registered historic parks and gardens within the vicinity of the proposed development. Do not wish to comment on the application.

### ADVERTISEMENT

Extent of advertisement: The application was advertised via a site notice, press notice and 15 neighbour notification letters were sent. Following the receipt of amended plans a reconsultation has been carried out.

Response: In relation to the initial consultation exercise a letter was received that was submitted on behalf of residents of Clos Trefeddyg from a planning consultancy. This combined letter states it has been prepared on behalf of 20 residents from 12 properties within the street. A separate representation was also received from one of the signatories of the combined letter.

In relation to the reconsultation on amended plans a further joint letter on behalf of residents of Clos Trefeddyg was received stating that they were very disappointed that the developer has made little change to the original plans submitted and has not sought to address the grounds for objection contained in their original objection.

Summary of observations: - Inappropriate Location for development and not in accordance with Local Development Plan Policies.

- The site is not brownfield land as claimed by the applicant.
- Unsuitable access and highway safety matters including danger to children living and playing within the existing housing development.
- The site is in a generally unsustainable location and this is evident by the number of vehicles proposed in the application. As such there will be an over reliance on travel by private car.
- The increase in vehicle movements associated with the proposal will result in an intensification of use of existing infrastructure which is not designed to accommodate the increase, potentially resulting in safety concerns.

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- Size of existing private drive and Visibility from existing driveways onto access road.
- Existing parking problems.
- If the development does proceed access should be from Rhydd Y Gwern lane.
- The design of the proposals does not accord with local policy in terms of parking, as does not appropriately consider the impacts of servicing and waste collection.
- Insufficient privacy distances due to topography and relationship between existing dwellings and the proposed dwellings especially plot 3 leading to overlooking and overshadowing.
  - The proposed housing density does not comply with objectives within national or local policy.
- Adverse Impact on the Public Right of way and scenic nature of an existing walk.
- Impact on nature.
- Surface water flooding may impact existing residents.
- Risk to Stability of Land.
- Housing Land Supply should not be considered relevant as development would not comply with other policies.
- The proposals constitute an inappropriate and unsustainable development of the application site which would have the potential to erode the amenity and privacy of the adjacent residential properties and give rise to unacceptable transport and traffic impacts.
- Application site is within an area designated for Coal Safeguarding under Policy SP8 (Mineral Safeguarding).
- Conflict of interest between the development company and the funding bank.

SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area?

It is not considered that crime and disorder will be materially affected by the development.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species?

A survey was carried out and no evidence was found, but an advisory note will be attached to the consent and sent to the applicant as a precautionary measure.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? The development is CIL liable, and the application site is located with the Higher Viability Zone, which carries a rate of £40 per square metre of internal floor space.

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## ANALYSIS

### Policies:

The application has been considered in accordance with national guidance, local plan policy and supplementary planning guidance.

The main considerations for the application are the Planning Policy implications of the location of the application site, impact on neighbour amenity and highway considerations.

The application site is located adjacent to but outside of the defined settlement boundary on land now considered to be greenfield and therefore the proposed development is considered to not accord with adopted Local Development Plan Policy SP5 (Settlement Boundaries) and would not accord with the provisions of Policy CW15 (General Locational Constraints). As such it is considered to be a departure from the Local Development Plan. It is noted that all planning applications must be determined in accordance with policies in the Development Plan, unless material considerations indicate otherwise. In that respect material planning considerations that may be weighed up in relation to the application are discussed below.

In relation to National Planning Guidance, Technical Advice Note 1 (Joint Housing Land Availability Studies) indicates that the housing land supply figure is a material consideration in determining planning applications for housing. Specifically paragraph 6.2 of TAN1 states "Where the current study shows a land supply below the 5-year requirement or where the local planning authority has been unable to undertake a study), the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies. It is noted that at this time Welsh Government are undertaking a public consultation on the possible temporary dis-application of paragraph 6.2. However, to date no decision has been made by Welsh Government and therefore paragraph 6.2 of TAN1 remains relevant to the consideration of this planning application and considerable weight should be given to any Housing land supply shortage.

The consultation response of the Council's Strategic & Development Plans section confirms that the latest Annual Monitoring Report (AMR), which is the main mechanism for reviewing the relevance and success of the Local Development Plan, has identified that there is a need for a further 4,012 dwellings to be developed over the remainder of the plan period (by 2021) to meet the total housing requirement for the plan period. There is a shortfall in the five year land supply as defined by TAN1 which is currently at 2.1 years. The proposed development would therefore make a small contribution to addressing the housing land supply shortfall.

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Planning Policy Wales has the provision of more choice as an objective and states that, "There must be sufficient site suitable for the full range of housing types." This proposal clearly addresses the larger, low density end of that range.

There have been two recent planning appeal decisions on significant greenfield sites outside of the settlement boundary in the same strategy area - Land South of Pandy Road, Bedwas (up to 300 dwellings) issued on 31st January 2017 and Land North of Hendredenny Drive, Hendredenny, Caerphilly (260 dwellings) issued on 4th October 2017.

In the Pandy Road planning appeal decision, the Inspector concluded "Whilst the proposal does not accord with the development plan...the considerable shortfall in housing supply should be given substantial weight and weighs heavily in favour of the proposal."

This stance is reiterated in the Hendredenny planning appeal decision, with the Inspector stating "the extent of the shortfall weighs heavily in favour of development that can proceed without causing harm to its surroundings".

It is however noted that the current application site is on a much smaller scale to those appeal sites and hence the contribution to the land supply would therefore be far less but none the less the current application would contribute towards the shortfall and this remains a material consideration.

In respect of the application site, it is noted that whilst outside of the defined settlement boundary, it is adjacent to the settlement boundary and also existing housing. The site is situated in a relatively well contained land parcel, separated from extensive open countryside by the woodland to the north, hedge lines to the east and south and the Clos Trefeddyg to the west. As such, being a relatively self contained land parcel, it can be considered as rounding off the existing settlement without setting a precedent for extensive encroachment into the open countryside. As noted by the Strategic & Development Plan section whilst Machen is a small village, it is recognised as having a residential function and is served by key facilities including a library, school and shops and bus route. Whilst this site is on the edge of the settlement, it is a logical extension and would be considered to be a sustainable location.

The impact of the proposed development upon the amenity of occupiers of existing properties is also a material planning consideration. The general topography of the area undulates, but broadly rises from north-west to south-east and as such the proposed dwellings would be set at a higher level than the existing dwellings within Clos Trefeddyg. The three dwellings proposed are of a modern appearance and plot 3 is

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closest to numbers 7, 9 and 11 Clos Trefeddyg whose rear amenity space and rear elevations face towards plot 3. The orientation of plot 3 is angled in relation to those dwellings and the north-west facing side elevation has limited fenestration with windows serving a ground floor bedroom and utility room and no upper floor fenestration facing those properties.

In respect of the impact of plot 3 on the current levels of amenity enjoyed by the occupiers of numbers 7, 9 and 11 Clos Trefeddyg, following discussions with the agent revisions to the proposed siting of plot 3 were made to increase the separation distance. This was considered appropriate due to the level differences between the existing dwellings and the proposed dwelling whose ground level would be approximately 3.3 metres higher than those properties in Clos Trefeddyg due to the natural ground levels involved. The revised site plan achieves a separation distance between the footprint of the proposed dwelling on plot 3 and number 11 Clos Trefeddyg in excess of 23 metres. There would be a greater separation distance in respects of number 7 and 9 Clos Trefeddyg. The separation distance achieved between habitable room windows on plot 3 and 7,9 and 11 Clos Trefeddyg would be in excess of 25 metres which taking into account the level difference is considered to avoid any unacceptable overlooking.

The agent has made a further revision in relation to plot 3 seeking to reduce the finished floor level of plot 3 by 1.5 metres. Whilst the ground level of the proposed plot 3 dwelling would still be around 2 metres above the properties in Clos Trefeddyg, given the separation distances, limited fenestration on the relevant elevation of the new dwelling and its angled orientation it is considered that there will be an acceptable impact on neighbour amenity from the proposed dwellings.

The impact of the proposed development on number 12 Clos Trefeddyg is considered acceptable noting that its side elevation faces the application site and the footprint of the dwelling on plot 1 which is the closest proposed dwelling is in excess of 21 metres away. The development would accord with adopted Local Development Plan Policy CW2 (Amenity) in having an acceptable impact on the amenity of occupiers of the existing housing.

The development would be accessed via an existing private drive at the eastern end of Clos Trefeddyg which currently serves numbers 11 and 12 Clos Trefeddyg. The proposed three dwellings would make a total of five properties served from the private drive which is in accordance with the Highway Authority requirements. The Highway Authority have reviewed the planning application and have offered no objections to the proposed development. It is considered that the development would accord with adopted Local Development Plan Policy CW3 (Highways).

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It is noted that the proposed design of the dwellings is different to the adjacent residential housing development with use of a modern design with monopitch roof forms utilising sedum 'green' roofs, solar panels and rendered walls with cedar board cladding and architectural glazing element. It is considered on balance that the proposed contemporary design is acceptable according with adopted Local Development Plan Policy SP6 (Placemaking).

Comments from Consultees: Addressed in the body of the report.

Comments from public:

- Inappropriate Location for development and not in accordance with Local Development Plan Policies.

This has been considered within the body of the report.

- The site is not brownfield land as claimed by the applicant.

The definition of previous developed land is set out within Figure 4.4 of Planning Policy Wales. It identifies a number of exclusions from the definition of previously developed land including "land where the remains of any structure or activity have blended into the landscape over time so that they can reasonably be considered part of the natural surroundings." As evidence of any past use has blended into the landscape, it is considered that the site would not be considered to be previously developed land in policy and is consequently considered to be a greenfield site and has been considered as such in the determination of this application.

- Unsuitable access and highway safety matters including danger to children living and playing within the existing housing development.

The Highway Authority have considered the proposed access arrangements and have offered no objections to the development.

- The site is in a generally unsustainable location and this is evident by the number of vehicles proposed in the application. As such there will be an over reliance on travel by private car;

Whilst Machen is a small village, it is recognised as having a residential function and is served by key facilities including a library, school and shops and bus route. Whilst this site is on the edge of the settlement, it is a logical extension and would be considered to be a sustainable location. Facilities, including bus stops are within walking distance.

- The increase in vehicle movements associated with the proposal will result in an intensification of use of existing infrastructure which is not designed to accommodate the increase, potentially resulting in safety concerns;

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The Highway Authority have considered the application and have not objected to the proposed dwellings. Given the modest size of the development (3 houses) the increase in associated traffic movements would be extremely low, generating an increase well within normally accepted limits as regards the impact on highway safety.

- Size of existing private drive and Visibility from existing driveways onto access road. Noting the limited number of dwellings proposed in this application and served by the existing private drive it is considered that the development would be acceptable. Reference is made in relation to the width of the existing portion of drive (circa 3.6m) that it would be unsuitable for the development. This portion of the private drive is restricted in length to approximately 15 metres. It is noted that the new portion of private drive proposed would be 4.5m and the interface with the existing spur access would be such that cars on the proposed private drive could view the existing portion of Clos Trefeddyg and if necessary pause to allow another vehicle to access over the limited length of 3.6m wide private drive. The existing portion of private drive is surfaced in pavements which differentiates the surface from the rest of Clos Trefeddyg and could function similar to a shared surface. Manual for Streets indicates that "Shared surface streets are often constructed from pavements rather than asphalt, which helps emphasise their difference from conventional streets. Research for MfS has shown that block paving reduces traffic speeds by between 2.5 and 4.5 mph, compared with speeds on asphalt surfaces" (MfS paragraph 7.2.15). A portion of fencing will be required to be removed to facilitate the access onto the application site. In respect of additional fencing to the side of numbers 11 and 12 Clos Trefeddyg these are areas adjacent to their driveways either in front or to the side of the dwellings.

- Existing parking problems

Each property would have parking areas able to accommodate three vehicles and a planning condition is proposed restricting the garages to be used for parking purposes.

- If the development does proceed access should be from Rhydd Y Gwern lane. Direct access onto Rhydygwern Lane would not be considered to be suitable as it is substandard in terms of its width, forward visibility, horizontal alignment and lack of footways.

- The design of the proposals does not accord with local policy in terms of parking, and does not appropriately consider the impacts of servicing and waste collection. Parking for the proposed properties is compliant with Supplementary Planning Guidance document LDP5 Car Parking Standards; ample off-street parking is evident for the existing dwellings on Clos Trefeddyg which should not lead to excessive on-street parking to the point where the highway becomes too narrow to facilitate access.

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With regards to service vehicles accessing the new dwellings, the turning head proposed as part of the extended private driveway is of adequate size to accommodate these. In terms of refuse collection, all bins would need to be left on the adopted highway for the bin lorry to collect, as is the case for existing residents;

- Insufficient privacy distances due to topography and relationship between existing dwellings and the proposed dwellings especially in relation to plot 3 leading to overlooking and overshadowing.

Following discussions amendments have been made to plot 3 to increase separation distance and lower the slab level. It is considered the development will have an acceptable impact on neighbour amenity.

- The proposed housing density does not comply with objectives within national or local policy.

It should be noted that the Local Development Plan does not prescribe a density for residential development. One of the key objectives of the LDP is "to ensure an adequate and appropriate range of housing sites are available across the County Borough in the most suitable locations to meet the housing requirements of all sections of the population." The site is not a key transport node and therefore a lower density in this location is appropriate and this accords with advice contained within national guidance (Planning Policy Wales) and Local Development Plan Policy SP6 (Placemaking).

- Adverse Impact on the Public Right of way and scenic nature of an existing walk. The public right of way is required to be kept open. The Rights of Way Officer has provided advice in this regard which will be provided as an informative to the developer. The application site is not a formally designated open space and the existing housing already impacts on the right of way.

- Impact on nature.

The Council's Ecologist has reviewed the Ecological Assessment submitted with the planning application and has offered no objections to the development. A portion of the rear garden areas of plots 2 and 3 have been identified as an 'Ecology Zone' and tree planting is proposed. A planning condition is proposed to restrict outbuildings on this area.

- Surface water flooding may impact existing residents.

The Land Drainage Officer has reviewed the application and has offered no objection to the planning application. A drainage scheme is required to be submitted prior to the commencement of development. In addition separate legislation requires land owners to address matters related to surface water run off.

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- Risk to Stability of Land.

The Coal Authority have advised that site investigations are required to be submitted for the written agreement of the Local Planning Authority through proposed planning conditions for coal mining and contamination and any remedial measures recommended will have to be complied with by the development.

- Housing Land Supply should not be considered relevant as development would not comply with other policies.

The housing land supply is a material planning consideration and this has been considered in conjunction with both National and Local Planning Policies.

- The proposals constitute an inappropriate and unsustainable development of the application site which would have the potential to erode the amenity and privacy of the adjacent residential properties and give rise to unacceptable transport and traffic impacts.

These concerns have been addressed within the body of this report and on balance the development is considered acceptable.

- Application site is within an area designated for Coal Safeguarding under Policy SP8 (Mineral Safeguarding).

In respect of the designation this site forms a very small part of the much larger Coal Safeguarding Area. No interest in exploiting the Coal resource in this area has been received in a significant period of time and the need for housing as shown through the Housing Land Supply shortfall has to be balanced against such designations. The impact of the site being used for residential is considered to be negligible in terms of the impact on the entire Coal Safeguarding area and it is not considered that a refusal of the application on the basis of its designation within the Coal Safeguarding Area would be appropriate. It is unlikely in any case that permission would be granted for mineral exploration so close to existing housing.

- Alleged conflict of interest between the development company and the funding bank. This is not a material planning consideration.

Other material considerations:

Noting the restricted number of dwellings and a precedent set by a recent approval for a similar of number of dwellings in close proximity to the site (15/0139/FULL The Ranch New Row) it is considered that it would not be reasonable to require public open space to be provided within the development.

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## Application No 18/0123/FULL Continued

Section 106 requirements must be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. The proposed commuted sum for affordable housing passes the first two tests in that policy requirement, and due to the nature of the scheme affordable housing cannot be erected on site, but at over £27,000 per plot it cannot be considered to be fairly and reasonably related in scale and kind to the proposal. Housing was recently approved at Islwyn Bowls Club where sums of £13,502 per plot were agreed. That would be a reasonable sum to secure at this site as well giving a total of £40,506.

The duty to improve the economic, social, environmental and cultural well-being of Wales, has been considered in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015. In reaching the recommendation below, the ways of working set out at section 5 of that Act have been taken into account, and it is considered that the recommendation is consistent with the sustainable development principle as required by section 8 of that Act.

It is considered that the development proposed is acceptable noting that whilst outside the defined settlement boundary it would provide a contribution towards the acknowledged Housing Land Supply shortfall and the characteristics of the site, being a well screened and relatively self-contained land parcel would provide a logical extension to the existing settlement not likely to set a precedent for excessive encroachment into open countryside. In relation to concerns over density, whilst it is acknowledged the site would be very low density the only practicable access is a via the existing private drive and the development would result in a total of five dwellings (including the two existing dwellings on Clos Trefeddyg already served from it). This is the maximum numbers of dwelling allowed to be served from a private drive by the Highway Authority and therefore provides a constraint to providing any development at greater density. It is considered on balance that the development is acceptable and is recommended for approval accordingly.

**RECOMMENDATION** that (A) the application be deferred to allow the applicants to enter into a Section 106 Obligation to provide the following:-

1. A commuted sum payment in relation to Affordable Housing of £40,506.

On completion of the Section 106 Obligation that (B) planning permission is granted subject to the following conditions:

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## Application No 18/0123/FULL Continued

This permission is subject to the following condition(s)

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.  
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
- 02) The development shall be carried out in accordance with the following approved plans and documents:  
Site Location Plan, drawing reference 2266-PA-01, received 05.02.18;  
Site Plan, drawing reference 2266/PA/03B, received 16.05.18;  
Landscaping Plan, drawing reference 2266/PA/04B, received 16.05.18;  
Proposed Plans Plot 1, drawing reference received 05.02.18;  
Proposed Elevations Plot 1, drawing reference 2266/PA/06, received 05.02.18;  
Proposed Plans Plot 2, drawing reference 2266/PA/07, received 05.02.18;  
Proposed Elevations Plot 2, drawing reference 2266/PA/08, received 05.02.18;  
Proposed Plans, Plot 3, drawing reference 2266/PA/09, received 05.02.18;  
Proposed Elevations Plot 3, drawing reference 2266/PA/10, received 05.02.18;  
Typical Garden Fencing Detail, drawing reference 2266/PA/11, received 05.02.18;  
Site Section Plot 3, drawing reference 2266/PA/20B received 16.05.18.  
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 03) The roof area of the single storey garage/utility room on plot 3 shall not be used as a balcony, roof garden or similar amenity area.  
REASON: In interests of the amenity of neighbours.
- 04) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order) with or without modification, no windows or dormer windows, other than those expressly authorised by this permission, shall be constructed without the approval of the Local Planning Authority.  
REASON: In the interests of residential amenity.
- 05) No vegetation clearance, works or development shall take place until a scheme for the protection of the retained trees (section 7, BS59837, the Tree Protection Plan) has been agreed in writing with the Local Planning Authority. This scheme shall where the Local Planning Authority consider appropriate include:
  - a) a plan to a scale and level of accuracy appropriate to the proposal that shows

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## Application No 18/0123/FULL Continued

the position, crown spread and Root Protection Area (para. 5.2.2 of BS5837) of every retained tree on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees to be removed shall be indicated on this plan,

b) the details of each retained tree as required at para. 4.2.6 of BS5837 in a separate schedule,

c) a schedule of tree works for all the retained trees in paragraphs (a) and (b) above, specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS3998, 1989, Recommendations for tree work,

d) written proof of the credentials of the arboricultural contractor authorised to carry out the scheduled tree works,

e) the details and positions (shown on the plan at paragraph (a) above) of the Ground Protection Zones (section 9.3 of BS5837),

f) the details and positions (shown on the plan at paragraph (a) above) of the Tree Protection Barriers (section 9.2 of BS5837), identified separately where required for different phases of construction work (e.g. demolition, construction, hard landscaping). The Tree Protection Barriers must be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase,

g) the details and positions (shown on the plan at paragraph (a) above) of the Construction Exclusion Zones (section 9 of BS5837),

h) the details and positions (shown on the plan at paragraph (a) above) of the underground service runs (section 11.7 of BS5837),

i) the details of any changes in levels or the position of any proposed excavations within 5 metres of the Root Protection Area (RPA) (para. 5.2.2 of BS5837) of any retained tree, including those on neighbouring or nearby ground,

j) the details of any special engineering required to accommodate the protection of retained trees (section 10 of BS5837), (e.g. in connection with foundations, bridging, water features, surfacing)

k) the details of the working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the RPAs of retained trees,

l) the details of the working methods to be employed for the installation of drives and paths within the RPAs of retained trees in accordance with the principles of "No-Dig" construction,

m) the details of the working methods to be employed with regard to the access

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## Application No 18/0123/FULL Continued

for and use of heavy, large, difficult to manoeuvre plant (including cranes and their loads, dredging machinery, concrete pumps, piling rigs, etc) on site,  
 n) the details of the working methods to be employed with regard to site logistics and storage, including an allowance for slopes, water courses and enclosures, with particular regard to ground compaction and phytotoxicity,  
 o) the details of the method to be employed for the stationing, use and removal of site cabins within any RPA (para. 9.2.3 of BS5837),  
 p) the details of tree protection measures for the hard landscaping phase (sections 13 and 14 of BS5837).  
 q) the timing of the various phases of the works or development in the context of the tree protection measures.

The development shall thereafter be carried out in accordance with the agreed details.

REASON: In the interests of visual amenity.

- 06) Prior to the commencement of the development a scheme depicting hard and soft landscaping shall be submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be carried out in the first planting and/or seeding season following the beneficial occupation of the third dwelling of the development. Any trees or plants which within a period of 5 years from the completion of the development die or are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

REASON: In the interests of the visual amenity of the area.

- 07) Details of land drainage shall be submitted to and agreed in writing with the Local Planning Authority before the works commence and shall be carried out in accordance with the agreed details before the development is brought into use.

REASON: To ensure that the development is appropriately drained.

- 08) The demolition or site vegetation clearance associated with the development hereby approved shall not take place during the breeding season for birds, from March to August inclusive in any given year, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that breeding birds are protected. All British birds, their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000.

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## Application No 18/0123/FULL Continued

- 09) If mature trees along the south eastern boundary originally identified to be retained require felling or tree management work as part of the development hereby approved, a climbing inspection for bats shall be carried out before such works take place, and the results of the survey, together with details of any proposed mitigation measures shall be submitted for the approval of the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved measures.  
REASON: To ensure proper measures are taken to safeguard the habitat of protected species, in the interests of biodiversity.
- 10) Prior to the commencement of works on site, details of the garden boundary fence to be erected inside the existing hedgerows, in order to exclude the hedgerows from within the garden boundaries, shall be submitted to the Local Planning Authority for approval. The approved details shall be strictly complied with and shall be implemented before the new dwelling hereby approved is first occupied.  
REASON: To ensure the protection of bat foraging habitat.
- 11) Prior to the commencement of development details of the lighting of the development shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed scheme.  
REASON: To ensure adequate protection to protected species.
- 12) No development or site/vegetation clearance shall take place until a detailed Reptile Mitigation Strategy has been prepared by a competent ecologist and submitted to and agreed in writing by the Local Planning Authority. The approved measures shall be strictly complied with.  
REASON: To ensure that reptiles are protected.
- 13) Prior to the commencement of works on site, a method statement shall be submitted for approval to the Local Planning Authority detailing the treatment of Himalayan Balsam and Japanese Knotweed on site. The treatment of Himalayan Balsam and Japanese Knotweed shall be carried out in accordance with the approved details.  
REASON: It is an offence under the Wildlife and Countryside Act 1981 (as amended) to "introduce, plant or cause to grow wild any plant listed in Schedule 9 Part 2 of the Act" . Japanese Knotweed and Himalayan Balsam is included within this schedule. All Japanese knotweed waste (the plant itself or material containing its rhizome) is classed as controlled/special waste and therefore must be disposed of in accordance with the Environmental Protection Act 1990 and the Environmental Protection Act Duty of Care Regulations 1991.

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## Application No 18/0123/FULL Continued

- 14) The bat tube for roosting bats and the Sparrow Terrace bird box for house nesting birds to be located on plots 1, 2 and 3 as shown on the submitted plans (drawings: 2266/PA/06, 2266/PA/08 and 2266/PA/10) shall be incorporated on the elevations as shown on the submitted plans. The bat tubes and bird boxes shall be incorporated on the buildings before the new properties hereby approved are first occupied.  
REASON: To provide additional roosting for bats as a biodiversity enhancement, in accordance with Part 1 Section 6 of the Environment (Wales) Act 2016, and policy contained in Welsh Assembly Government's Planning Policy Wales (2016) and Tan 5 Nature Conservation and Planning (2009).
- 15) The native hedgerows, retained habitat and ecology zone, shall be protected and managed in accordance with a 5 year management plan to be submitted to and agreed in writing by the Local Planning Authority before the commencement of any works on site. That plan shall include the timing of its implementation.  
REASON: In the interests of biodiversity conservation and enhancement in accordance with Part 1 Section 6 of the Environment (Wales) Act 2016, and policy contained in Welsh Assembly Government's Planning Policy Wales (2016) and Tan 5 Nature Conservation and Planning (2009).
- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order) with or without modification, no building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of a dwelling house as such shall be constructed in those areas forming the Ecology Zone located to the south-east of the proposed new native hedgerow and associated boundary fencing for plots 2 and 3 on the same side as the proposed 9 pedunculate oak trees as shown on drawing 2266/PA/04A without the approval of the Local Planning Authority.  
REASON: In the interests of amenity.
- 17) Notwithstanding the provisions of the Town & Country Planning Act (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) the garages approved as part of this development shall not be physically altered or converted to any other domestic purpose without the prior approval of the Local Planning Authority. The garages shall be made available at all times for the parking of motor vehicles associated with the residential use of the dwellings hereby approved.  
REASON: To ensure that adequate parking facilities are provided within the curtilage of the site.

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## Application No 18/0123/FULL Continued

- 18) The development shall not be occupied until the area indicated for the parking of vehicles has been laid out in accordance with the submitted plans and that area shall not thereafter be used for any purpose other than the parking of vehicles.  
REASON: In the interests of highway safety.
- 19) The proposed private driveway serving the development shall be constructed in permanent materials to have been first agreed in writing with the Local Planning Authority and shall be completed prior to beneficial occupation of the development hereby approved.  
REASON: In the interests of highway safety.
- 20) Rainwater run-off shall not discharge into the highway surface water drainage system.  
REASON: In the interests of highway safety.
- 21) Prior to the commencement of the development a scheme shall be submitted to and agreed in writing by the Local Planning Authority to deal with the contamination of the site. That scheme shall include a ground investigation and a risk assessment to identify the extent of the contamination and the measures to be taken to avoid risk to the occupants of the development when the site is developed. The development shall be carried out in accordance with the approved scheme.  
REASON: In the interests of public health.
- 22) Before any soils or hardcore that do not fall within the green category set out in Table 2 of the WLGA document 'Requirements for the Chemical Testing of Imported Materials for Various End Uses and Validation of Cover Systems 2013' are brought on to site, a scheme for their importation and testing for contamination shall be submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.  
REASON: To prevent contamination of the application site in the interests of public health.
- 23) No building approved by this permission shall be occupied or approved uses commence until a report has been submitted to and approved in writing by the Local Planning Authority which verifies that the required works have been undertaken in accordance with the remediation strategy.  
REASON: To protect public health.

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## Application No 18/0123/FULL Continued

- 24) Prior to the commencement of development a Site Investigation of the underground strata shall be submitted for the written approval of the Local Planning Authority. The report shall include:
- The undertaking of an appropriate scheme of intrusive site investigations;
  - The findings arising from the intrusive site investigations;
  - A scheme of remedial works.
- The development shall be carried out in accordance with the approved report's recommendations including any remedial works.  
REASON: To avoid the possible risk of damage due to mining subsidence.
- 25) Notwithstanding the submitted plans prior to the commencement of the development a scheme shall be submitted to and agreed in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the occupation of the dwellings.  
REASON: In the interests of the visual amenities of the area.
- 26) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order) with or without modification, no enlargement of the dwelling hereby approved on plot 3 shall be constructed without the approval of the Local Planning Authority.  
REASON: In the interests of residential amenity.

Advisory Note(s)

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should

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## Application No 18/0123/FULL Continued

wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com) or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority).

The following policy(ies) of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 is/are relevant to the conditions of this permission: SP6, CW2, CW3, SP10.

Please find attached the comments of The Council's Landscape Architect, Rights of Way Officer, Senior Engineer (Land Drainage), Dwr Cymru/Welsh Water, NRW and The Coal Authority. that are brought to the applicant's attention.

The applicant is reminded that it is an offence to obstruct a public right of way. There is one public right of way in the area of this application. The planning permission does not authorise the stopping up or diversion of the right of way. The right of way may be stopped up or diverted by Order under section 257 of the Town and Country Planning Act 1990, provided that the order is made before the development is carried out. If the right of way is obstructed before the Order is made, the order cannot proceed until the obstruction is removed.

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## Application No 18/0123/FULL Continued

The access is shown to cross the public right of way. The levels of the public right of way are not to be altered where the public right of way crosses the access road. Details of the construction to be submitted prior to work commencing;

The footpath if bounded on both sides is to be a minimum of 1.8m wide, and the use of close boarded fence adjacent to the footpath to be limited especially on blind corners to protect the safety of the public using the public right of way;

The path must be protected during construction and remain open and usable at all times, unless a Temporary Traffic Regulation Order is in place (Application form available upon request).

The applicant is reminded that it is an offence to obstruct a public right of way. The right of way in the area of the application must remain available for use and the safety of the public using the footpath must be ensured at all times.

Where the access road crosses the public right of way, there will be a need to sign the route of the public right of way. Specification of such to be agreed with the Rights of Way Department in advance.

The public right of way is regularly used by the public, and the site needs to be kept free of obstructions. Should the applicant require further information regarding their responsibilities to the Public Right of Way, they are requested to contact the Rights of Way Officer on 01443 866669.

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DEFERRED FOR REASONS FOR REFUSAL

