

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
19/0322/RET 15.04.2019	Mr T Jones Rudry House Rudry CF83 3EB	Retain and complete land raising works and importation of topsoil to improve horse exercise and grazing area Land At Grid Ref 320304 186681 R/o Haven Hill Maenllwyd To Yew Tree Cottage Rudry

APPLICATION TYPE: Retain Development Already Carried Out

SITE AND DEVELOPMENT

The application site is located approximately 90m to the east of The Maenllwyd Inn and approximately 1km to the south of Rudry.

Site description: The application site forms part of a small holding located within a cluster of dwellings and outbuildings in the open countryside. The land to which the application relates is a small field parcel to the north east and rear of the dwelling and located behind a number of stable buildings. The site has been tipped in order to create a level plateau out from the rear of the stables in a northerly direction.

Development: This application seeks full planning consent for the retention of an area of tipping. The application is supported by detailed plans and sections through the tipped material together with delivery tickets for the materials confirming the nature of the material that has been imported. The size of the plateau is to be reduced with the material on the north western edge of the site being scraped back to a less steep angle of repose, with the resulting material being spread over the plateau area to raise the levels at that point. A previous application to retain the tipped material in its current form was recently refused as it was considered that it had an unacceptable impact on the landscape character of the area.

Dimensions:

The tipped area has an area of 0.166ha and has a maximum height of 3m above existing ground level. The proposed plateau will be 150mm higher than the existing tipped area.

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Materials: The material is confirmed as inert waste.

Ancillary development, e.g. parking: None.

PLANNING HISTORY 2005 TO PRESENT

18/0812/RET-Retain and complete land raising-Refused-22.11.2018.

POLICY

Local Development Plan: Outside settlement limits and within the South Caerphilly Special Landscape Area.

Policies

Local Development Plan: SP3 (Development in the Southern Connections Corridor), SP5 (Settlement Boundaries), SP6 (Place Making), CW2 (Amenity), CW3 (Design Considerations: Highways), CW4 (Natural Heritage Protection), CW6 (Trees, Woodland and Hedgerow Protection), CW15 (General Locational Constraints), CW19 (Locational Constraints - Rural Development and Diversification) and NH1.5 (South Caerphilly Special Landscape Area).

National Policy: Planning Policy Wales states: -

4.11.9 The visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations. Local planning authorities should reject poor building and contextual designs. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions.

6.3.3 All the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their special characteristics, whilst paying due regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places. Considering landscape at the outset of formulating strategies and policies in development plans and when proposing development is key to sustaining and enhancing their special qualities, and delivering the maximum well-being benefits for present and future generations as well as helping to deliver an effective and integrated approach to natural resource management over the long term. Collaboration and engagement with adjacent planning authorities, Natural Resources Wales (NRW), Cadw and the third sector will be necessary to draw on a wide range of expertise and evidence.

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6.3.11 Planning authorities should provide for the conservation and, where appropriate, enhancement of local landscapes. This may include policies for landscape features, characteristics and qualities of local significance, and the designation of Special Landscape Areas (SLAs). Planning authorities should state which features, characteristics or qualities require extra protection, and explain how the policy or designation will achieve this protection. LANDMAP and any associated landscape character assessments (including the register of historic landscapes in Wales) should be used to inform local landscape policies and SPG, and to help identify or revise SLAs.

6.3.12 SLAs are non-statutory designations that define local areas of high landscape importance, which may be unique, exceptional or distinctive to the area. Planning authorities should apply these designations where there is good reason to believe that normal planning policies cannot provide the necessary protection.

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? No.

CONSULTATION

Landscape Architect - Raises objection to the application in respect of the visual impact of the proposal on the South Caerphilly Special Landscape Area.

Head Of Public Protection - No objection.

Transportation Engineering Manager - No objection subject to a condition restricting the use of the menage for personal use only and no commercial use.

Natural Resources Wales - No objection.

Ecologist - No comments at time of the report.

Senior Engineer (Land Drainage) - No objection subject to the submission of a drainage scheme.

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ADVERTISEMENT

Extent of advertisement: The application was advertised by means of a site notice and neighbour letters.

Response: Two letters of objection were received.

Summary of observations:

- The tipped waste contains unacceptable material.
- The structure has an unacceptable visual impact on the area. A previous application was refused on that basis.
- The works have disturbed rats resulting in them becoming more active in the area.
- Nobody was informed of the tipping operation before it commenced.
- The works created a significant amount of dust.
- No drainage has been provided on the site.
- The tipped material is unstable.
- The tipping operation does not comply with the U1 Exemption issued by Natural Resources Wales and the landowner received money for the material.
- The submitted details do not accurately reflect the extent of tipping that has occurred on site.
- The application form states that there are no trees on the application site. This is incorrect as several mature trees were removed prior to the tipping taking place. The previous application was refused on the basis of the impact on trees on site.
- The application form states that none of the land forms part of an agricultural holding. This is incorrect as the land has been used for the keeping of animals.
- The tipped material contains Himalayan Balsam which is an invasive species.
- What is happening with the material that is to be removed from the bank of the tipped material?
- This application is clearly a delaying tactic designed to avoid an enforcement notice being served.

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?
None.

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EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? Based on current evidence, this is unlikely to be a significant issue in this case, but an advisory note will be attached to the consent and sent to the applicant as a precautionary measure.

Is this development Community Infrastructure Levy liable? No.

ANALYSIS

Policies: The application has been considered in accordance with national planning policy and guidance, local plan policy and supplementary planning guidance. This application seeks full planning consent for the retention of tipping operations in order to create a manege on a small holding outside of the defined settlement limits. A manege is considered to be a recreation facility (whether for personal use or not) and as such the proposal is supported by Criterion C of Policy CW15 of the LDP as it is considered to be a proposal that is suitable in a countryside location.

In that regard the main point to consider in the determination of this application is whether the proposal has an unacceptable impact on the landscape character of the area having regard for its siting within a Special Landscape Area (SLA). It should be noted that the Council's Landscape Architect has commented as follows:-

"Having studied the plan and site photographs I am not satisfied that sufficient material is being removed and also concerned that levels are proposed to be increased by another 150mm (topsoil) as well as retaining a larger plateau area than required for the manege.

In addition, whilst I would normally welcome native hedge planting there is insufficient information shown on drawings and this currently does not sit comfortably with the landscape character/field pattern. Also having studied aerial photographs, I note that hedgerow and mature trees have also been lost over recent decades and I would expect any new development to make effort to address this change in landscape character and the adverse impact the material deposited in RPA has on existing / remaining trees.

Therefore given the sensitive countryside SLA location, lack of information re planting mitigation, combined with the adverse change this development makes to the local Landscape character and views afforded of the site, I recommend that the application in its current form is refused.

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Should more detailed proposals be developed that clearly detail more material being removed/regraded to reduce the plateau area to the manege area only and mitigation in the form of species rich grass seeding and mixed native hedgerow (7 species) plus native tree planting and protective stock proof fencing etcetera, this is more likely to be acceptable subject to further comment/approval."

Whilst these concerns are noted, it is not considered that the application is unacceptable in planning terms as it is considered that the visual impact of the development on the character of the special landscape area is overstated in this instance. It is acknowledged that the existing tipped area has an unacceptable impact on the landscape character of the area and presents an alien landform that is at odds with the wider landscape. However, since the refusal of the previous application that tipped area has naturally seeded and vegetated, which has significantly reduced its visual impact. Whilst this does not make the existing situation acceptable it does give an indication that the proposed scheme, which in planning terms drastically reduces the surface area of the tipped material, could be made acceptable with adequate landscaping and planting. Notwithstanding that the landscape architect considers that insufficient information has been submitted in respect of landscaping, it is considered that such details can be secured by condition and that this would mitigate the impact of the proposal to an acceptable extent.

The landscape architects concerns that the tipped area is larger than that required for the manege are also considered to be overstated in this instance. To reduce the amount of tipping to that required for the existing manege would be tantamount to refusing the entire scheme and that is considered to be unnecessary and unreasonable in planning terms.

Comments from Consultees: The concerns of the Council's Landscape Architect are addressed above and no other objections were raised.

Comments from public: The comments of the objector are addressed as follows:-

- The application is supported by delivery tickets detailing the material that has been tipped on site and it is the subject of a waste exemption from Natural Resources Wales. The application has also been assessed by the Council's Head of Public Health and Protection and no objection has been raised. In that regard it is not considered that the material used within the tip would have a detrimental impact on human health.
- The visual impact of the proposal is addressed above.

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- Any nuisance from rats would be a matter for Public Health and Protection and would have no bearing on the determination of this application.
- There is no requirement on the developer to inform any third parties of works prior to the commencement of operations. The Local Planning Authority was not aware of these works until they had been substantially completed and as such was not in a position to notify residents until such time as an application was received.
- With any application for earth movement works there is likely to be an element of dust associated with it. However a condition can be attached to any consent granted ensuring that dust mitigation measures are implemented during the works to re-profile the tipped materials and as such the proposal is considered to be acceptable in that regard.
- Whilst it is accepted that no drainage has been provided on site, this can be adequately covered by condition.
- The responsibility for the stability of the tipped material rests with the developer. Given the scale of the tipping it is unlikely that a slippage would lead to any harm to the public and as such this is not a material planning consideration. Moreover, there is no evidence to suggest that the tip is unstable and this application actually seeks to scrape back the tipped material adjacent to the lane to the north west and to regrade the bank of the tip at a less steep gradient. It is considered that these works would reduce any potential for slippage on site.
- If the tipping operation does not comply with the U1 exemption then that is a matter for NRW. The fact that the applicant may have received money for the material is not a material planning consideration.
- It is considered that the supporting evidence submitted with the application accurately shows how much material has been imported onto the site and how much is to be moved as part of this latest proposal. The waste transfer notes show that in the region of 1500 tonnes of material has been tipped on the site. However, it is not considered that the tipping of such quantities of material is unacceptable in principle subject to it being adequately landscaped as discussed above.
- The tipping operations may have led to the loss of a small number of mature trees but in that this is a retrospective application it is not possible to carry out any surveys of these trees. Moreover, planning consent would not have been required for the removal of those trees prior to the commencement of works and as such it is not considered that this issue would warrant refusal of the application. It is correct that the previous application was refused in respect of the impact on existing trees that are to be retained on site, specifically those on the north west boundary of the site. However, this application seeks to remove the tipped material from that area and subject to these works being carried out in accordance with an agreed scheme it is considered that this concern can be adequately addressed.

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- The application forms are correct in that none of the land to which the application relates forms part of an agricultural holding. Whilst the land may have been used for keeping horses this does not make it an agricultural holding as the land would need to be registered with the Welsh Government as such. Moreover, the purpose of the notice is to notify any person who is a tenant on any holding and there are no tenants in this instance. In any event this has no bearing on the determination of this application.
- It is accepted that the tipped materials contains Himalayan Balsam which is an invasive species. This matter is being dealt with by the applicant in conjunction with the Council's Invasive Species Officer and as such this matter does not have a bearing on the determination of this application.
- As stated above the material that is to be removed from the bank of the tipped material is to be re-distributed on the top of the plateau thereby increasing its overall height by 150mm. It is not considered that this would be unacceptable in planning terms.
- Whether or not this application is being used as delaying tactic by the applicant to avoid an enforcement notice being served is not a material planning consideration.

Other material considerations: None.

In conclusion it is considered that, despite the objections raised by the Council's Landscape Architect, the proposal is acceptable in planning terms subject to the imposition of suitable conditions to deal with landscaping and amenity concerns. As such it is recommended that planning consent is granted.

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.

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RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) The works hereby approved shall be commenced within 6 months of the date of this consent and shall be completed in accordance with the approved details within 12 months of the commencement unless otherwise agreed in writing by the Local Planning Authority.
REASON: In the interests of the amenity of the area in accordance with Policy CW2 of the Local Development Plan.
- 02) The development shall be carried out in accordance with the following approved plans and documents:
Site Location Plan, received 15.04.2019;
Drawing No: 001, Rev. A - Block Plan and Sections, received 15.04.2019.
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
- 03) The consent hereby granted shall not relate to the native hedge as shown on drawing number 001 and alternative details of hedgerow planting and maintenance for enhancement of the existing hedge boundary on the north west boundary of the application site shall be submitted for the approval of the Local Planning Authority prior to the commencement of any further works on site. The development shall thereafter be carried out in accordance with the approved details.
REASON: In the interests of visual amenity in accordance with Policy CW2 of the Adopted Caerphilly County Borough Local Development Plan up to 2021.
- 04) Prior to the commencement of the development hereby approved a scheme for the control of dust arising from operations on site shall be submitted to and agreed in writing with the Local Planning Authority. Thereafter the agreed scheme shall be implemented at all times to control dust at the site.
REASON: To prevent pollution in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

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- 05) A scheme of landscaping and a programme for the provision of the landscaping shall be submitted to the Local Planning Authority for agreement within 1 month of the date of this permission. The agreed scheme of landscaping shall be implemented in accordance with the agreed programme. 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, unless the Local Planning Authority gives written consent to any variation.
REASON: In order to ensure that the site is landscaped and is maintained in the interests of the visual amenity of the area in SP6 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 06) 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.
- 07) Prior to the commencement of the development hereby approved a method statement for the works, including details of how materials are to be removed from within root protection areas of all trees to be retained as part of this development and the measures to be used for the protection of those trees shall be submitted for the approval of the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
REASON: In order to provide adequate protection for the retained trees in accordance with Policy CW6 of the Local Development Plan.

