

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
15/0001/RET 13.01.2015	Mr A Morris Ironbridge Cottage Draethen Newport NP10 8GB	Retain footpath Land At Iron Bridge Draethen Newport

APPLICATION TYPE: Retain Development Already Carried Out

SITE AND DEVELOPMENT

Location: On land at Ironbridge, Draethen, on the north-eastern side of the road between Draethen and Michaelston.

Site description: Field parcel, in use for grazing. Rises steeply away from the River Rhymney/valley bottom, towards the roadside, near the field boundary with Tresguthan Farm.

Development: Retention of footpath.

Dimensions: The length of the proposed permissive footpath is approximately 220 metres. The width of the footpath varies and is mostly unconstrained along its length, except for at both ends where timber railings (adjacent to the steps near the road; and, adjacent to the river bank) reduce the width to approximately 1 metre and 1.5 metres respectively.

Materials: The path is made up of various finishes: timber is used for the steps construction; gravel is laid along part of the footpath near the river bank; but along most of its length through the pasture, the pathway is grazing land/turf which is already worn due to general usage.

Ancillary development, e.g. parking: None.

PLANNING HISTORY

14/0777/FULL - Construct a footpath/public right of way diversion. - Application returned.

POLICY

Cont'd

Application 15/0001/RET Continued

LOCAL DEVELOPMENT PLAN

Site Allocation Outside settlement limits.

Policies: SP5 (Settlement Boundaries); CW2 (Amenity); CW3 (Design Considerations: Highways); CW15 (General Locational Constraints).

National Policy: Paragraph 4.10.9 of Planning Policy Wales (2010) states: - "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."

National Planning Guidance contained in Technical Advice Note 12 - Design.

ENVIRONMENTAL IMPACT ASSESSMENT

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

Was an EIA required? Not applicable.

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? This is not an issue in this case.

CONSULTATION

Transportation Engineering Manager - No objection.

Head Of Public Protection - No objections.

Senior Engineer (Land Drainage) - No adverse comments.

Countryside And Landscape Services - No comments.

Rights Of Way Officer - No objection but makes comments of which the applicant should be advised.

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Application 15/0001/RET Continued

Draethen, Waterloo & Rudry Community Council - There is objection on the grounds that the proposed footpath is not truly accessible to those with disability.

Glam/Gwent Archaeological Trust - No objection but makes comments of which the applicant should be advised.

ADVERTISEMENT

Extent of advertisement: Three neighbours notified, and site notice displayed.

Response: One neighbour objects, and a local interest group register their concerns, and also raise objection.

Summary of observations: (1) The path is not disability friendly; (2) The egress of the path onto the road is directly onto a section of road that has poor visibility, being close to a bend, and would result in walkers coming into contact with motorists more quickly than the existing Public Right Of Way (P.R.O.W.); (3) It is alleged that the proposal to retain this footpath is a surreptitious attempt to divert the P.R.O.W., and that the reasons given for the diversion are disingenuous; (4) The footpath creates a break in the connectivity of a hedgerow that has the potential for dormice, which may have a detrimental impact upon the dormouse population; (5) It is alleged that the supporting information is misleading, claiming that the footpath has no 'negative effects' upon the local, natural and historic heritage; and (6) The location of the proposed footpath is adjacent to a neighbouring property, whose owners are concerned that the proximity of members of the public walking the path so close to their boundary introduces the potential for breach of security of their property.

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?

There are no specific crime and disorder issues in this instance. Neighbours have mentioned a breach of security as a concern but this would be the case with many public footpaths adjacent to residential properties, and on balance should not militate against this proposal.

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EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? A South East Wales Biodiversity Records Centre (SEWBReC) planning data search has been undertaken and there are several records for Dormice within close proximity to the newly created and original footpath. The newly created break within the hedgerow has caused a barrier for the movement of Dormice through the local area. A planning condition should be attached to address this situation.

Is this development Community Infrastructure Levy liable? This development is not CIL liable.

ANALYSIS

Policies: The application has been considered in accordance with national guidance, local plan policy and supplementary planning guidance. The main point to consider in the determination of this application is the effect the proposal will have on the character of the countryside. In that regard it should be noted that the only element of construction 'above' ground level is the flight of steps, and timber hand rails, as the path meets the road, and also near the river bank. As such it is considered that the path would not have a detrimental impact on the character of the countryside.

Comments from consultees: Draethen, Waterloo and Rudry Community Council raise objection on the grounds that the footpath is not easily accessible to those with disability. This reason was also raised by other interested parties, and the response is shown below.

Comments from public: In response to the concerns and objections from correspondents:

(1) The path is not 'disability friendly', but neither is the existing P.R.O.W. fully 'disability friendly'. The proposed pathway is intended as an alternative for walkers, and it would be their choice whether they wish to walk in front of the owner's house or not. Equally, disabled walkers still have the option to traverse the P.R.O.W.; (2) In respect of highway safety, the Transportation Engineering Manager raises no objection to the proposal; (3) In this instance, it is not the role of the Local Planning Authority to judge the intentions of the applicant, but merely the planning merits of the proposal. The future of the P.R.O.W. is a matter to be dealt with under other legislation; (4) The new footpath has resulted in creating a break in the hedgerow that runs along the main road. Dormice are known to only move along and through vegetation and very rarely move along the ground as this makes them prone to predation.

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Therefore, this newly created break within the hedgerow has caused a barrier for the movement of Dormice through the local area. In order for the Dormice to resume their movement through the local area then some planting of hazel will be required at either side of the break that has been made in the hedgerow. The hazel trees will need to be planted so that they grow towards each other creating a high point where they meet. This will then create a link over the broken hedgerow for the Dormice and will need to be kept at a height where it won't cause problems for people using the footpath; (5) The supporting information provided by the applicant, in the form of a Design and Access Statement, is scrutinised along with all of the submitted information; and, (6) In respect of the neighbour who has a concern about a potential breach of security of their property, it should be noted that this footpath would be a permissive footpath only, and the permission would not encourage any breach of security of any neighbouring land.

Other material considerations: In relation to the P.R.O.W. perspective, the applicant is entitled to create a permitted path, subject to planning permission, and there is no other legal process for this. The landowner is effectively inviting users onto his land and can take this invitation away at any time. The landowner can erect signage pointing the public in the direction he wishes them to go but is not allowed to use signage which may be misleading to the public regarding the legal right of way. The legal public footpath route would still need to be made available for the public to use but he can actively ask politely if they would like to use the alternative route he has provided. Materials used and any formal construction are matters to be determined within the scope of the planning application.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) A plan showing the details of hazel planting at the breaks within the hedgerow to re-create the linkage for the Dormice shall be submitted to and agreed in writing by the Local Planning Authority within 8 weeks of the date of this consent. The plan shall include the species, numbers, location of planting, the height/age, and the timing of its implementation.

REASON: To ensure adequate protection and mitigation for protected species.

Advisory Note(s)

Please find attached the comments of Glamorgan/Gwent Archaeological Trust, Rights of Way Officer and the Council's Ecologist that are brought to the applicant's attention.

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: CW2, CW3 and CW15.

