

PLANNING COMMITTEE	DATE: 04/07/2022
REPORT OF THE SENIOR PLANNING AND PUBLIC PROTECTION SERVICE MANAGER	

Number: 1

Application Number: C22/0038/22/LL

Date Registered: 19/01/2022

Application Type: Full Application

Community: Llanllyfni

Ward: Llanllyfni

Proposal: Extend track under application reference C21/1155/22/YA for a distance of 15 metres to the north of the existing entrance along with the construction of a bridge to cross the water-course - Lôn Tyddyn Agnes, Llanllyfni

Location: Fferm Taldrwst, Lôn Ddŵr, Llanllyfni, Caernarfon, Gwynedd, LL54 6RR

Summary of the Recommendation: TO APPROVE WITH CONDITIONS

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1. Description:

- 1.1 The application was deferred at the June Planning Committee in order to inform one of the objectors whom wishes to speak at the Committee as well as to conduct a site visit.
- 1.2 This is a full application to extend the agricultural track approved under application reference C21/1155/22/YA for a distance of 15 metres to the north of the existing entrance along with the construction of a bridge to cross the watercourse off of Lôn Tyddyn Agnes, a unclassified county road in the community of Llanllyfni. The proposed track is located on land that is part of Fferm Taldrwst, a 121ha agricultural holding. The application was submitted following the response of the Transportation Unit to the deterioration in the surface of Lôn Tyddyn Agnes and to reduce additional heavy traffic on the lower part near the junction with the third class county road (Lôn Ddŵr). The track, in its entirety, would enable the applicant to make use of land that is difficult to farm in a location that would form a crucial link within the agricultural holding between the mountain and the plain.
- 1.3 This extended part of the agricultural track will continue from the parts of the track that have already been approved i.e. different layers of permeable material including *Geotech Teram*, slate and compacted chippings. The track will be 2.5m wide and will extend to 6m across the entrance itself. There will be an embankment measuring approximately 0.8m high on either side of the track and a number of trees have already been felled to improve visibility from the site itself (note there are no preservation orders on the trees on the site or in the vicinity of the site and no planning permission is required to fell them). The bridge located adjacent to the proposed access will be constructed of steel and will have a simple design set on two concrete foundations within the field and on either side of the water-course. This would be a means of avoiding disruption to the water-course bed. The application was submitted to the planning committee due to the public interest and concerns regarding developments on this site.
- 1.4 The site lies in open countryside and this section of improved grassland is used for livestock grazing. There is a watercourse that runs along the site's western boundary between the proposed track and Lôn Tyddyn Agnes. A number of trees have already been felled on the site's western peripheries to provide visibility to the north and south but as referred to above, planning permission was not required to carry out this element of the development as these trees or any other trees in the vicinity are subject to tree preservation orders. CADW has designated the site as the Nantlle Valley Landscape of Special Historic Interest and the Tal-Eithin Quarry Wildlife Site is located to the south. The area is also located within the Special Landscape Area of the North Western Fringes of Snowdonia.
- 1.5 To support the application, the applicant has submitted a Preliminary Ecology Assessment together with a Planning Statement. The Planning Statement refers to a number of elements within the application and these are noted briefly as: -
- The application was submitted following discussions with the Transportation Unit and to avoid any further damage to the unclassified county road (Lôn Tyddyn Agnes) and the desire to reduce pressure on 250m of the road itself by creating an alternative route within the applicant's land that is nearer to the junction with Lôn Ddŵr.
 - This latest plan is nearly exactly the same development as that which falls under Section 6 *Permitted Development (Building and Agricultural Activities)* and as has already been approved under applications C21/1155/22/YA (building an agricultural track) and C20/0785/22/YA (creation of track and hardstanding).
 - The ecology report notes there is no unique or rare ecology on the site and at an additional cost, the applicant has constructed a bridge to cross the general water-course/ditch rather than a culvert in order to protect the riverbed.

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- Any waste generated from the work will be disposed of in a permitted facility and work to be carried out to the county road carriageway will be carried out by an approved contractor to the full satisfaction of the Transportation Unit.

1.6 In response to the observations received from statutory consultees and the observations from the public, the agent has provided the following observations:

- The operations of the holding have changed over recent years which have obviously affected the amenities of some of the local residents. Taldrwst is a unique farm where the effects of the slate industry's past are intertwined with the use of the site as a farm. In order to carry out the work, several applications have been submitted under the permitted development rights procedure that were not subject to full planning applications. The Local Planning Authority cannot insist on a planning application if the work is in accordance with these requirements.
- In the long-term, agriculture is the sole and main aim - the minerals development is temporary and will cease as soon as the tips are disposed of.
- Trees have been felled, however, they were not subject to a tree preservation order and the trees were felled outside the nesting season and the site is not within a conservation area.
- It is proposed to create an alternative route to the Taldrwst site to avoid the sub-standard road of Tyddyn Agnes. The methodology that forms a basis to this plan is stopping traffic from using Lôn Tyddyn Agnes to avoid heavy vehicles damaging it as close as possible to the source. This also involves reducing the risk that is associated with a blind corner on Lôn Tyddyn Agnes and due to the associated planning benefit the Highway Department did not object to the application albeit it did recognise that objections have been received from local residents mainly due to the increase in traffic that would derive from activities in Taldrwst.
- In relation to building the bridge across the ditch/stream, the applicant is aware of the need to comply with statutory regulations relating to the need to obtain the relevant permission and permit from the Council's Highways Department and the Water and Flooding Unit. The work of constructing the new bridge will not affect the remains of the nearby viaduct.
- The applicant notes why it is not suitable to submit a full environmental assessment with this latest application due to cumulative impacts as this is an application to extend the track and relocate a bridge and previous developments area already established on the site under the Permitted Rights Order (1995) without ecological restrictions. As part of this planning application, it is proposed to introduce a scheme to enhance the hedge that existed between the proposed track and the ditch to include oak, hawthorn, blackthorn and holly. There is a low ecological value to the field and it is an arable field with yellow flowers planted - this is an initial crop before re-establishing the field as grassland next year.
- Despite acknowledging the concerns of the Biodiversity Unit in relation to protecting nearby trees, the proposal includes using *geocell membrane* to construct the track and it will be used not only to create a stable foundation for the track but also to safeguard tree roots.
- No objection had been received from Natural Resources Wales or from the Council's Water and Pollution Unit to the method for crossing the ditch/stream and that is it a means of avoiding disruption to the watercourse bed and there is no phosphate related to the development and it is not a development that increases sewage levels and is not linked to intensifying livestock.

2. Relevant Policies:

2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 2.1.2 of Planning Policy Wales emphasise that planning decisions should be made in accordance with the

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Development Plan, unless material considerations indicate otherwise. Planning considerations include National Planning Policy and the Local Development Plan.

2.2 The Well-being of Future Generations (Wales) Act 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet the seven well-being goals within the Act. This report has been prepared in consideration of the Council's duty and the 'sustainable development principle', as set out in the 2015 Act. In reaching the recommendation, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

2.3 **Anglesey and Gwynedd Joint Local Development Plan 2011-2026 (LDP) adopted 31 July 2017: -**

PCYFF 1 - Development boundaries.

TRA 4 - Managing transport impacts

PCYFF 2 - Development criteria.

PCYFF 3 - Design and place shaping.

AMG 2 - Special landscape areas.

AMG 5 - Local biodiversity conservation.

PS 19 - Conserving and where appropriate enhancing the natural environment

PS 20 - Conserving and enhancing cultural assets.

2.4 **National Policies:**

Future Wales: The National Plan 2040.

Planning Policy Wales (Edition 11, February 2021).

Technical Advice Note (TAN) 5: Nature Conservation and Planning.

TAN 6: Planning for Sustainable Rural Communities

TAN 18: Transportation.

TAN 24: The Historic Environment.

Development Control Handbook, 2017 (comprehensive guidelines for local planning authorities on dealing with and determining development proposals).

3. **Relevant Planning History:**

3.1 3/22/358: Storing scrap vehicles on land - approved January, 1986.

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3.2 C20/0785/22/YW - advance notification under Class A, Part 6 of the Town and Country Planning Order (Permitted General Development) 1995 (as amended) for the creation of a track and hard-standing approved in November, 2021. The work of infilling the former quarry pit at Tyddyn Agnes is considered to be *reasonably necessary* for agricultural purposes at Taldrwst holding and is permitted under Class A, Part 6 of the Order, therefore, it is not subject to a planning application.

3.2 C21/1155/22/YA - advance notification under Class A, Part 6 of the Town and Country Planning Order (Permitted General Development) 1995 (as amended) for the creation of a track that was approved in March 2022.

The following history refers to nearby sites:

3.4 C19/0184/22/AC: Discharge of planning conditions on notification decision under Section 19 Class C of the general Permitted Development Order C18/1076/22/MW: Condition 2 - Construction Environmental Management Plan Condition 3 - Landscaping details and Condition 5 - Transport Management Plan - Approved March 2019.

3.5 C18/1076/22/MW: Advance notification under Part 19 Class C of Permitted General Development 1995 (as amended) to fill a dormant quarry pool - the permitted development rights were confirmed in February 2019.

3.6 C18/0230/22/MW: Notification under Part 23B of Schedule 2 - Extraction of Material from Mineral Works (Tyddyn Agnes Slate Tip) - the permitted development rights were confirmed in April 2018.

3.7 C17/0973/22/MW: Extraction of material from mineral works depot under Part 23, Class 2 of the Permitted General Development Order 1995 (Taldrwst Slate Tip) - the permitted development rights were confirmed in October 2017.

3.8 C16/0796/22/TC: Lawful development certificate in relation to proposed use of the property as a residential dwelling - Confirmed October, 2016.

4. Consultations:

Town/Community Council: No objection.

Transportation Unit: No objection in principle to the plan but the applicant must contact the Council to obtain a permit to erect a bridge above the watercourse that is part of the highway.

Natural Resources Wales: No observations to make on the proposed development noting that the ecology report states that no protected species were discovered on the application site. We would recommend that you consult your ecologist regarding the report.

We would recommend that the developer operates appropriate measures to prevent pollution and manage waste. The activity of importing waste into the site for use as, for example hardcore, must

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be registered with Natural Resources Wales as an exempt/licensable activity under the Environmental Permitting Regulations 2016 unless the CLAIRE protocol is valid.

The developer should contact Natural Resources Wales to discuss the need for an exemption/permit for any material that is imported and exported from the site. Gwynedd Council's drainage department as the Lead Local Flooding Authority may be able to advise on any local problems relating to culverts, disposal of surface water, and any associated flooding risks. Note that our decision not to provide observations does not mean that there may not be a possibility for the proposed development to affect other interests, including environmental interests of local importance. The applicants should be informed that it is they, together with planning permission, who are responsible for ensuring that they obtain all the permits/permissions relevant to their development.

Welsh Water:

No response.

Biodiversity Unit:

Given the information that has been submitted, the Unit agrees that the Preliminary Ecology Report is not to a sufficient standard as it was carried out in November and the relevant species are either in hibernation or not present on the site.

From the information submitted and the number of applications associated with the site, it is proposed that the applicant provides a PEA to assess the cumulative impact of the development and that the developer provides a mitigation plan and tree protection and water pollution plan.

Gwynedd Archaeological Planning Service:

If the bridge avoids the "existing wall" that could be part of the water viaduct, there will be no significant archaeological implications in approving the application.

Water and Environment Unit:

INFORMATION: Our maps show that a water-course runs through the site of the proposed development, and current plans suggest that it is proposed to cross this water-course at two different locations. The proposal to erect a bridge across the water-course towards the access to the highway is welcomed.

An Ordinary Watercourse Consent would be required for any work that could affect the flow of the water course, including any modifications to the culvert.

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Since 7 January 2019, sustainable drainage systems (SuDS) are required to control surface water for every new development of more than one dwelling or where the building surface area has drainage implications of 100m² or more. Drainage systems must be designed and constructed in accordance with the minimum standards for sustainable drainage as published by Welsh Ministers.

These systems must be approved by Gwynedd Council in its role as SuDS Approval Body (SAB) prior to commencement of the construction work.

Due to the size and nature of the development, an application may need to be provided to the SuDS Approval Body to be approved before construction work commences. No drainage plan has been submitted and until an application is made to the SuDS there is no assurance that the site plan would enable compliance with the full suite of the national NDS standards. Early consultation with the SAB is recommended.

Public Consultation:

A notice was posted on the site and nearby property occupants were notified. The advertising period has already expired and correspondence was received objecting on the following grounds:

- Lôn Ddŵr is entirely unsuitable for heavy transport and the surfaces of the local roads network are deteriorating due to the heavy vehicles that are already using them. An accident has already happened when a collision occurred between a tractor and a local neighbour.
- Work has already commenced on the site as a number of trees have been felled.
- Approving this application would continue with the environmental destruction that is already taking place.
- Approving the application would mean industrialising a thriving wildlife habitat.
- Due to the nature and the cumulative impact of this latest application on the grounds of quarry operations it should be dealt with by the Planning Committee.
- By approving the proposal there would be an increase in noise disturbance at the expense of residential amenities.
- Residents who live within a specific distance of the site should have received a notice of the planning application.

5. Assessment of the material planning considerations:

The principle of the development

- 5.1 This latest application is to extend the agricultural track approved under application reference C21/1155/22/YA for a distance of 15 metres to the north of the entrance already approved under the same notification and construction of a bridge to cross the water-course to provide access to the applicant's agricultural land. Planning permission, rather than an advance notification, is required

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for this latest agricultural development as the new access is located within 25m of the class III county road (Lôn Ddŵr) in accordance with the guidelines of Class A, Part 6 of the Permitted General Development Order, 1995, as amended).

- 5.2 Policy PCYFF1 of the LDP states that outside development boundaries, proposals will be refused unless they are in accordance with specific policies in the LDP or national planning policies or that the proposal shows that its location in the countryside is essential. To this end, and by taking this assessment into account, it is believed that this latest proposal complies with relevant policies in the LDP along with relevant national planning policies and it is believed that its location in the countryside is essential as the applicant has previously submitted justification based on the need to carry out work to improve and treat the land by providing the essential agricultural infrastructure that is expected of a modern and viable agricultural holding.
- 5.3 National Planning Policy in the form of TAN 6: Planning for Sustainable Rural Communities states that the Welsh Government's aim is *to ensure a sustainable and profitable future for farming families and businesses by producing and processing farm produce at the same time as protecting the environment, health and welfare of animals...contributing to the vitality and prosperity of rural communities*. To this end and to facilitate agricultural developments, planning regulations (Permitted General Development Order, 1995, as amended, in this case) allow individuals to submit an advance notification for some agricultural developments that include erecting, extending or changing buildings or conducting engineering or excavation works.
- 5.4 The holding's recent history has been noted above and this latest application can be treated as the natural and reasonable continuation of development in this part of the agricultural holding. The first advance notification was approved under application C20/0758/22/YA for the creation of a track and hard-standing adjacent to the Tyddyn Agnes quarry pit. As a continuation of this notification, a second notification was submitted under reference C21/1155/22/YA to extend the track further to the north and create an access to the unclassified county road (Lôn Tyddyn Agnes) along with constructing a bridge across a ditch/stream. As a continuation and improvement to this last notification, this current application was submitted to relocate the access 15m further to the north towards the junction with Lôn Ddŵr. The reasoning behind this latest application is that it would create an access that is nearer to the junction to enable lorries to enter and exit the site with ease and to avoid damaging the unclassified county road. The applicant says that application responds to discussions with the Transportation Unit regarding the decline of the unclassified county road (Lôn Tyddyn Agnes) and the Unit's wish to take the pressure of heavy lorries away from the road itself.
- 5.5 Referring to the history of this part of the agricultural holding, it can be considered that the principle of connecting the quarry pit to the local roads network for agricultural purposes is acceptable and that the principle of such a proposal has already been accepted when the previous notifications were approved. The Local Planning Authority has already acknowledged that the work of creating the track along with the hard-standing would happen on land that was previously part of the Tyddyn Agnes slate quarry but is now part of the Taldrwst agricultural holding. It should also be noted that this latest proposal is an amendment of the previous notification due to relocating the access 15m nearer to the junction with the county road and it is believed that the scale and nature of this latest proposal matches the developments that have already been approved in order to facilitate the work of improving the quality of the land. To this end, it is believed that this latest proposal is acceptable in principle and that it complies with the requirements of Policy PCYFF 1 of the LDP along with the advice contained within the TAN 6 document.

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Visual amenities

- 5.6 As referred to above, the site lies in open countryside to the east of the Llanllyfni settlement and within the Special Landscape Area of the North-western Fringes of Snowdonia. There are trees and vegetation in the form of a hedge on the northern and eastern boundaries of the site and a stream/ditch flowing in the direction of river Llyfni runs alongside the site's western boundary. The agricultural land is currently used for livestock grazing and includes improved grassland, acidic grassland and some fern growth. The remains of historical quarry operations form a backdrop to the site in the form of a former quarry known as Tyddyn Agnes Quarry.
- 5.7 The latest proposal is to create a 2.5m wide track that extends to 6m across the proposed access with a 0.8m high embankment on either side of the track. The length of this section of the track will be approximately 100m and is a natural continuation to the agricultural track that was approved under advance notification C20/0785/22/YA. The track will be constructed of permeable material and will run close to the nearby unclassified county road (Lôn Tyddyn Agnes) and the bridge constructed from steel with a concrete surface and a simple design and will sit at a low level in the landscape. The track would be visible from the local roads network, it is considered that views of the track itself would only be visible from close-by and would be sporadic and given the industrial character attributed to most of Dyffryn Nantlle, it is not believed that this latest proposal would create a significantly incongruous structure within this part of the landscape and therefore, it is not considered that it would undermine the setting or character of the Special Landscape Area. It is therefore believed that this latest proposal is acceptable on the grounds of the requirements of Policy AMG 2 and PS 19 of the LDP.

General and residential amenities

- 5.8 As referred to above, objections were received from the occupants of a property in the vicinity of the application site in response of the statutory consultation process on the grounds that approving this latest application would have a detrimental impact on the residential and general amenities of these occupants as there would heavy transport would cause noise nuisance. The Local Planning Authority's consideration of this current application is restricted to the impact of extending the track for agricultural use and not for infilling the quarry pit (which is an agricultural activity approved under the regulations noted above) and to this end, it is not believed that this element of the activity in itself will have a significant impact on the amenities of local residents on grounds of noise nuisance. To this end, therefore, it is believed that the proposal is acceptable based on the requirements of Policy PCYFF 2 in relation to safeguarding the amenities of the residents of local properties.

Transport and access matters

- 5.9 As already mentioned, this application was submitted following discussions with the Transportation Unit and by approving the application the applicant noted there will be improvements to the safety of the highway by separating heavy agricultural traffic from the users of the unclassified county road (Lôn Tyddyn Agnes) along with reducing damage to the road surface. Such an arrangement would also make it easier for lorries to enter and leave the application site without causing a

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significant obstacle for current road users. Occupants of a local property have submitted objections on grounds that the proposal would involve an increase in heavy vehicles using the local roads network, however, we must consider the fact that the Local Planning Authority has no control over this element of activity on the agricultural holding as the act of infilling the quarry pit is an agricultural activity that is approved under the relevant regulations.

- 5.10 The Transportation Unit responded that it has no objection in principle to the scheme provided the applicant applies to the Unit for the relevant permit to carry out work within the highway to ensure that any structure is built in accordance with statutory highway requirements i.e. the ditch/stream is located in the highway in this context. To this end, therefore, it is believed that the proposal complies with the requirements of policy TRA4 of the LDP based on its impact on road safety.

Biodiversity matters

5. 11 The application site is located within a close proximity of the Tal Eithin Quarry Wildlife Site and a Preliminary Ecology Survey was submitted with the application. The Biodiversity Unit responded asking for more information on grounds of submitting an Ecological Impact Assessment and providing a mitigation plan and a tree protection and water pollution plan. One key ecological feature to consider is ensuring the compliance of this latest scheme with the Protection of Habitats and Species Regulations 2010. The consideration needed for a planning application includes ensuring that developments are not harmful to the maintenance of the population of the species concerned at a favourable conservation status in its natural environment. To this end, and as mentioned above, a Preliminary Ecological Survey was submitted by a qualified Ecologist and it noted, although there is potential for protected species to use the site, there is no evidence of them being present there. The survey also proposes appropriate mitigation measures for protecting the interests of protected species, giving particular attention to reptiles and amphibians as suitable habitats are present for them on other areas within the agricultural holding.
- 5.12 Paragraph 4.3 of TAN 5: Planning and Nature Conservation clearly states that any ecological information must be proportionate to the likely impact on ecological interests. Additionally, paragraph 6.2 states that given the delay and costs that could be involved with submitting ecological assessments and reports, the developer should not be forced to carry out surveys for protected species unless their presence on the site is reasonably likely. As referred to above, the Preliminary Ecological Survey confirms there is no evidence of protected species on the site or on nearby land and it is considered that the avoidance and mitigation measures are reasonable and proportionate given the low risk that exists on the site for protected species.
- 5.13 Should the application be approved, it is possible to include a condition to comply with the mitigation measures noted within the Preliminary Ecological Survey along with mitigation measures including local biodiversity improvements such as planting indigenous trees. It is also noted that national advice states that local planning authorities should not duplicate the role of conservation bodies including Natural Resources Wales and the Council's Water and Environment Unit e.g. in relation to safeguarding watercourses from pollution.
- 5.14 Having considered this assessment along with the planning history of this part of the agricultural holding, it is believed that sufficient information has been submitted by the applicant based on a Preliminary Ecological Survey that enables the Local Planning Authority to carefully consider the impact of the proposal on protected species and from this perspective, it is believed that the proposal is acceptable based on the requirements of Policy AMG 5 of the LDP along with the relevant planning advice published by Welsh Government.

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Heritage Assets

- 5.15 Following the statutory consultation procedure, a response was received from the Gwynedd Archaeology Planning Service noting if the bridge avoids the 'existing wall' that may be part of a water viaduct there will be no significant archaeological implications to approving the application. To this end, the applicant has confirmed following a detailed investigation of the site in February 2022 that there are no remains of the viaduct in the location of the proposed bridge as the water-course that flows in the direction of the north, and the source of the water to the viaduct, flows under the bridge that crosses Lôn Ddŵr, and, therefore it would not be possible for the viaduct to cross above Lôn Ddŵr. The proposal is, therefore, acceptable based on the requirements of Policy PS 20 of the LDP.

6. Conclusions:

- 6.1 In assessing the application, full consideration was given to the observations received in response to the consultation period and to the response received from statutory consultees. Based on the above assessment, it is not considered that the proposal is contrary to local or national policies and there is no material planning matter that outweighs these policy considerations. To this end, therefore, it is believed that this proposal is acceptable subject to the inclusion of the following conditions.

7. Recommendation:

- 7.1 To approve the application subject to the following conditions: -

To approve – conditions:

1. Five years.
2. In accordance with the details submitted with the application.
3. Submit a tree planting plan to be approved in writing by the Local Planning Authority.
4. Complete the development in accordance with the recommendations of the ecological report.

Note regarding the need to obtain the permission of the Transportation Unit to carry out work within the highway.

Note regarding the advice received from the Council's Water and Environment Unit.