

# Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr Bridgend County Borough Council



Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont, CF31 4WB / Civic Offices, Angel Street, Bridgend, CF31 4WB

*Rydym yn croesawu gohebiaeth yn Gymraeg.  
Rhowch wybod i ni os mai Cymraeg yw eich  
dewis iaith.*

*We welcome correspondence in Welsh. Please  
let us know if your language choice is Welsh.*



Annwyl Cyngorydd,

## **PWYLLGOR DATBLYGIAD A RHEOLI**

Cynhelir Cyfarfod Pwyllgor Datblygiad a Rheoli o bell trwy Timau Microsoft ar **Dydd Iau, 30 Medi 2021 am 14:00.**

## **AGENDA**

1. Ymddiheuriadau am absenoldeb  
Derbyn ymddiheuriadau am absenoldeb gan Aelodau.
2. Datganiadau o fuddiant  
Derbyn datganiadau o ddiddordeb personol a rhagfarnol (os o gwbl) gan Aelodau / Swyddogion yn unol â darpariaethau'r Cod Ymddygiad Aelodau a fabwysiadwyd gan y Cyngor o 1 Medi 2008. Dylai aelodau cael rolau deuol o'r fath ddatgan buddiant personol mewn perthynas â'u haelodaeth o Gyngor Tref / Cymuned fath a rhagfarnllyd os ydynt wedi cymryd rhan yn yr ystyriaeth o eitem ar y Cyngor Tref / Cymuned a geir yn Adroddiadau y Swyddog isod.
3. Cymeradwyaeth Cofnodion 3 - 6  
I dderbyn am gymeradwyaeth y Cofnodion cyfarfod y 19/08/21
4. Siaradwyr Cyhoeddus  
I gynghori aelodau enwau'r siaradwyr cyhoeddus rhestredig i siarad yn y cyfarfod heddiw (os o gwbl).
5. Taflen Gwelliant  
Bod y Cadeirydd yn derbyn taflen gwelliant pwyllgor rheoli datblygu fel eitem frys yn unol â rhan 4 (paragraff 4) Rheolau Gweithdrefn y Cyngor, er mwyn caniatáu i'r Pwyllgor ystyried addasiadau angenrheidiol i adroddiad y Pwyllgor, felly ynghylch hwyr yn ystyried sylwadau a diwygiadau sy'n ei gwneud yn ofynnol i gael eu lletya.
6. Canllawiau Pwyllgor Datblygiad a Rheoli 7 - 10
7. P/21/605/FUL - 20 Rhodfa Shakespeare, Cefn Glas 11 - 24

Ffôn/Tel: 01656 643643

Negeseuon SMS/ SMS Messaging: 07581 157014

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Gwefan/Website: [www.bridgend.gov.uk](http://www.bridgend.gov.uk)

Cyfnwyd testun: Rhowch 18001 o flaen unrhyw un o'n rhifau ffon ar gyfer y gwasanaeth trosglwyddo testun

Text relay: Put 18001 before any of our phone numbers for the text relay service

Rydym yn croesawu gohebiaeth yn y Gymraeg. Rhowch wybod i ni os yw eich dewis iaith yw'r Gymraeg

We welcome correspondence in Welsh. Please let us know if your language choice is Welsh

8.	<u>P/21/237/RLX - Cyfleuster Digwyddiad Anaerobig, Stormy Down</u>	25 - 42
9.	<u>P/21/484/FUL - Irvin GQ, Heol Bettws, Llangeinor</u>	43 - 52
10.	<u>P/21/541/FUL - Triniau Lil Sweet, Heol Llangeinor, Llangeinor</u>	53 - 64
11.	<u>Apeliadau</u>	65 - 84
12.	<u>Archwilio Ceisiadau Cynllunio ac Apelau a Rheoli Adeiladu</u>	85 - 134
13.	<u>Rhestr Hyfforddiant</u>	135 - 136
14.	<u>Materion Brys</u> I ystyried unrhyw eitemau o fusnes y, oherwydd amgylchiadau arbennig y cadeirydd o'r farn y dylid eu hystyried yn y cyfarfod fel mater o frys yn unol â Rhan 4 (pharagraff 4) o'r Rheolau Trefn y Cyngor yn y Cyfansoddiad.	

Nodyn: Sylwch: Yn sgil yr angen i gadw pellter cymdeithasol, ni fydd y cyfarfod hwn yn cael ei gynnal yn ei leoliad arferol. Yn hytrach, bydd hwn yn gyfarfod rhithwir a bydd Aelodau a Swyddogion yn mynychu o bell. Bydd y cyfarfod yn cael ei recordio i'w ddarlledu ar wefan y Cyngor cyn gynted ag sy'n ymarferol ar ôl y cyfarfod. Os oes gennych unrhyw gwestiwn am hyn, cysylltwch â [cabinet\\_committee@bridgend.gov.uk](mailto:cabinet_committee@bridgend.gov.uk) neu ffoniwch 01656 643147 / 643148.

Yn ddiffuant

**K Watson**

Prif Swyddog – Gwasanaethau Cyfreithiol, Adnoddau Dynol a Rheoleiddio

**Dosbarthiad:**

Cynghowrwy

JPD Blundell  
N Clarke  
RJ Collins  
SK Dendy  
DK Edwards  
RM Granville

Cynghorwyr

A Hussain  
MJ Kearns  
DRW Lewis  
JC Radcliffe  
JC Spanswick  
RME Stirman

Cynghorwyr

G Thomas  
SR Vidal  
MC Voisey  
KJ Watts  
CA Webster  
RE Young

## PWYLLGOR DATBLYGIAD A RHEOLI - DYDD IAU, 19 AWST 2021

COFNODION CYFARFOD Y PWYLLGOR DATBLYGIAD A RHEOLI A GYNHALIWYD YN SIAMBR Y CYNGOR, SWYDDFEYDD DINESIG, STRYD YR ANGEL, PENYBONT AR OGWR CF31 4WB DYDD IAU, 19 AWST 2021, AM 14:00

### Presennol

Y Cynghorydd G Thomas – Cadeirydd

JPD Blundell	N Clarke	RJ Collins	DK Edwards
A Hussain	MJ Kearn	DRW Lewis	JC Radcliffe
RME Stirman	MC Voisey	KJ Watts	

### Ymddiheuriadau am Absenoldeb

SK Dendy, RM Granville, JC Spanswick, SR Vidal, CA Webster a/ac RE Young

### Swyddogion:

Rhodri Davies	Rheolwr Datblygu a Rheoli Adeiladu
Lee Evans	Uwch Swyddog Cynllunio
Craig Flower	Arweinydd Tim Cymorth Thechnegol
Rod Jones	Uwch Cyfreithiwr
Hayley Kemp	Prif Swyddog Cynllunio
Robert Morgan	Uwch Swyddog Rheoli Datblygu Trafnidiaeth
Jonathan Parsons	Rheolwr Grŵp Datblygu
Michael Pitman	Swyddog Gwasanaethau Democraidd – Pwyllgorau
Leigh Tuck	Swyddog Rheoli Datblygu Trafnidiaeth

### 503. DATGANIADAU O FUDDIANT

Gwnaed y datganiadau canlynol o fuddiant:

Y Cynghorydd JP Blundell – Buddiant personol yn Eitemau 7 a 10 ar yr Agenda, gan ei fod yn aelod o Gyngor Cymuned Tre-laleston, er yn un nad sydd yn cymryd unrhyw ran yn y gwaith o ystyried materion cynllunio.

Y Cynghorydd N Clarke – Buddiant personol yn Eitem 12 ar yr Agenda, gan ei bod yn aelod o Gyngor Tref Porthcawl, er yn un nad sydd yn cymryd unrhyw ran yn y gwaith o ystyried materion cynllunio.

Y Cynghorydd A Hussain – Buddiant personol yn Eitem 8 ar yr Agenda gan ei fod yn aelod o Ward Penyfai ac yn adnabod yr ymgeisydd.

### 504. CADARNHAU COFNODION

PENDERFYNIAD: Bod cofnodion cyfarfod y Pwyllgor Rheoli Datblygu â'r dyddiad 8 Gorffennaf 2021, yn cael eu cymeradwyo fel cofnod gwir a chywir.

### 505. SIARADWYR CYHOEDDUS

Roedd y canlynol wedi'u gwahodd i'r cyfarfod er mwyn arfer eu hawl i drafod y ceisiadau canlynol fel siaradwyr cyhoeddus:-

Y Cynghorydd CE Smith – Aelod Ward - P/21/605/FUL

**PWYLLGOR DATBLYGIAD A RHEOLI - DYDD IAU, 19 AWST 2021**

A Cassels – Gwrthwynebydd - P/21/605/FUL

506. **TAFLEN DIWYGIADAU**

**PENDERFYNIAD:** Nid oedd Taflen Ddiwygio ar gyfer busnes agenda'r cyfarfod heddiw.

507. **CANLLAWIAU'R PWYLLGOR RHEOLI DATBLYGU**

**PENDERFYNIAD:** Bod crynodeb o ganllawiau'r Pwyllgor Rheoli Datblygu, fel y'i nodir yn adroddiad y Cyfarwyddwr Corfforaethol - Cymunedau, yn cael ei nodi.

508. **P/20/328/FUL - TIR YN BROADLANDS HOUSE, BROADLANDS, CF32 0NS**

**PENDERFYNIAD:** (1) Ar ôl ystyried y cais uchod, i'r ymgeisydd ymrwymo i Gytundeb Adran 106, er mwyn:

(i) darparu cyfraniad ariannol ar gyfer y swm o £3,117 (wedi'i gysylltu â mynegai) tuag at ddarparu offer chwarae plant a chyfleusterau chwaraeon awyr agored.

(2) Rhoi pwerau dirprwyedig i'r Cyfarwyddwr Corfforaethol Cymunedau i gyhoeddi hysbysiad penderfynu sy'n rhoi caniatâd cynllunio mewn perthynas â'r cynnig hwn, unwaith y bydd yr ymgeisydd wedi ymrwymo i'r Cytundeb Adran 106 uchod ac yn ddarostyngedig i'r amodau a geir yn adroddiad y Cyfarwyddwr Corfforaethol - Cymunedau:-

**Cynnig**

Adeiladu 3 annedd ar wahân (derbyniwyd cynlluniau diwygiedig a gwybodaeth ar 09/07/2021)

509. **P/20/888/RLX - TIR ODDI AR ALL SAINT'S WAY, PENYFAI, CF31 4BX**

**PENDERFYNIAD:** (1) Ar ôl ystyried y cais uchod, i'r ymgeisydd ymrwymo i Weithred Amrywio neu Rwymedigaeth Gynllunio A106 atodol i sicrhau'r rhwymedigaethau yn y Cytundeb Adran 106 gwreiddiol fel rhan o'r cydsyniad Adran 73 hwn.

(2) Rhoi pwerau dirprwyedig i'r Cyfarwyddwr Corfforaethol Cymunedau i gyhoeddi hysbysiad penderfynu sy'n rhoi cydsyniad mewn perthynas â'r cynnig hwn, unwaith y bydd yr ymgeisydd wedi ymrwymo i'r Cytundeb Adran 106 uchod ac yn ddarostyngedig i'r amodau a geir yn adroddiad y Cyfarwyddwr Corfforaethol - Cymunedau:-

**Cynnig**

Amrywio amod 1 o P/17/77/FUL (fel y'i diwygiwyd gan P/17/855/NMA) i adlewyrchu fod Plotiau 1 a 4 wedi'u hadeiladu ac i ddiwygio manylion (lleoli a dylunio) Plotiau 2 a 3.

510. **P/20/777/FUL - TIR GERLLAW 8 SUNNYSIDE, BRO OGWR, CF32 7AW**

**PENDERFYNIAD:** Bod y cais uchod yn cael ei ganiatáu, yn ddarostyngedig i'r Amodau a geir yn adroddiad y Cyfarwyddwr Corfforaethol - Cymunedau:-

Cynnig

Cynnig i adeiladu dau dŷ pâr.

511. P/21/605/FUL - 20 SHAKESPEARE AVENUE, CEFN GLAS, CF31 4RY

PENDERFYNIAD: Gohirio'r cais uchod, er mwyn i Swyddogion allu cynnal ymgynghoriad ar y cynnig:-

Cynnig

Newid defnydd o fod yn annedd (dosbarth defnydd 3(a)) i fod yn lleoliad gofal preswyl i 1 plentyn (dosbarth defnydd C2).

512. P/21/337/FUL - 76 NOLTON STREET, PEN-Y-BONT AR OGWR, CF31 3BP

PENDERFYNIAD: Bod y cais uchod yn cael ei ganiatáu, yn ddarostyngedig i'r Amodau a geir yn adroddiad y Cyfarwyddwr Corfforaethol – Cymunedau:-

Cynnig

Newid defnydd o Ddosbarth Defnydd A1 i Ddosbarth Defnydd A3 (tecawê a chludo bwyd).

513. P/21/213/FUL - 21 SPRINGFIELD AVENUE, PORTHCAWL, CF36 3LB

PENDERFYNIAD: Bod y cais uchod yn cael ei ganiatáu, yn ddarostyngedig i'r Amodau a geir yn adroddiad y Cyfarwyddwr Corfforaethol – Cymunedau:-

Cynnig

Estyniadau arfaethedig i flaen, cefn ac ochr y ddormer ac i amnewid strwythur teras/deciau am risiau mynediad.

514. APELIADAU

PENDERFYNIAD: Bod y Penderfyniadau Apêl canlynol, fel y'u cynhwysir yn adroddiad y Cyfarwyddwr Corfforaethol - Cymunedau, ac a benderfynwyd gan yr Arolygydd(wyr) a benodwyd gan Weinidogion Cymru ers yr adroddiad diwethaf i'r Pwyllgor, yn cael eu nodi:-

- a) Rhif Cod. A/21/3271534 (1917) – Testun yr Apêl – Anedd deulawr yn sownd wrth annedd bresennol, 10 Eustace Drive, Bryncethin wedi'i leoli ar ochr 91 Nolton Street, Pen-y-bont ar Ogwr – **Gwrthodwyd yr Apêl** (gweler Atodiad A i'r adroddiad)
- b) Cod Rhif D/21/3276567 (1923) – Testun yr Apêl – Estyniad unllawr i'r cefn ac estyniad i do'r ddormer: 20 Hillsboro Place, Porthcawl – **Caniatawyd yr Apêl yn Rhannol/Gwrthodwyd yr Apêl yn Rhannol** (gweler Atodiad B i'r adroddiad).
- c) Cod Rhif D/21/3277143 (1924) – Testun yr Apêl – Codi'r to i greu Llawr Cyntaf gyda 3 ystafell wely, Ensuite ac Ystafell Ymolchi; estyniad unllawr i'r cefn gyda balconi uwchlaw; canopi dros ddrws ffrynt (ochr) 64 West Park Drive, Porthcawl – **Gwrthodwyd yr Apêl** (gweler Atodiad C i'r adroddiad).

**515. ENWEBU A PHENODI I'R IS-BWYLLGOR HAWLIAU TRAMWY**

Cyflwynodd y Prif Swyddog – Gwasanaethau Cyfreithiol, Adnoddau Dynol a Rheoleiddio adroddiad er mwyn i'r Pwyllgor Rheoli Datblygu ystyried enwebu a phenodi Aelodau i'r Is-bwyllgor Hawliau Tramwy.

Cadarnhaodd yr Uwch Gyfreithiwr y cymeradwywyd newidiadau i aelodaeth y Pwyllgor Rheoli Datblygu yng Nghyfarfod Blyneddol y Cyngor ar 15 Mai 2021, ac o ganlyniad i hyn mae angen ystyried enwebu a phenodi Aelodau i'r Is-bwyllgor Hawliau Tramwy.

Mae cyfansoddiad argymelledig yr Is-bwyllgor, yn seiliedig ar nifer yr Aelodau sydd i'w cynnwys, fel a ganlyn:-

Llafur - 2 Aelod – (i gynnwys Cadeirydd ac Is-gadeirydd y Pwyllgor Rheoli Datblygu)  
Annibynnol/Cynghrair - 1 Aelod  
Ceidwadwyr - 1 Aelod  
Annibynwyr Llynfi - 1 Aelod  
Plaid Cymru - 1 Aelod

**PENDERFYNIAD:**

Bod y Pwyllgor wedi cytuno i'r Aelodau canlynol gael eu penodi' i'r Is-bwyllgor Hawliau Tramwy:-

Y Cynghorydd G Thomas (Cadeirydd)  
Y Cynghorydd RM Granville (Is-gadeirydd)  
Y Cynghorydd C Webster  
Y Cynghorydd MC Voisey  
Y Cynghorydd DK Edwards  
Y Cynghorydd J Radcliffe

**516. COFNOD HYFFORDDIANT**

Cyflwynodd y Cyfarwyddwr Corfforaethol – Cymunedau adroddiad ar yr uchod a oedd yn trefnu sesiwn hyfforddi ar bwnc Mwynau, gan roi 29 Medi 2021 fel dyddiad dros dro.

Ychwanegodd Rheolwr y Grŵp – Datblygu a Chynllunio y bu cais am gynnull sesiwn hyfforddi arall ar bwnc Seilwaith Gwyrdd ac y byddai'n ceisio pennu dyddiad ar gyfer hyn cyn diwedd y flwyddyn.

Byddai'n croesawu unrhyw awgrymiadau pellach gan Gynghorwyr ar gyfer pynciau hyfforddiant i Aelodau maes o law.

**PENDERFYNIAD:**

Bod yr adroddiad yn cael ei nodi.

**517. EITEMAU BRYD**

Dim.

Daeth y cyfarfod i ben am 16:30

## **Development Control Committee Guidance**

I submit for your consideration the following report on Planning Applications and other Development Control matters based upon the information presently submitted to the Department. Should any additional information be submitted between the date of this report and 4.00pm on the day prior to the date of the meeting, relevant to the consideration of an item on the report, that additional information will be made available at the meeting.

For Members' assistance I have provided details on standard conditions on time limits, standard notes (attached to all consents for planning permission) and the reasons to justify site inspections.

### **STANDARD CONDITIONS**

On some applications for planning permission reference is made in the recommendation to the permission granted being subject to standard conditions. These standard conditions set time limits in which the proposed development should be commenced, and are imposed by the Planning Act 1990. Members may find the following explanation helpful:-

#### Time-limits on full permission

Grants of planning permission (apart from outline permissions) must, under section 91 of the Act, be made subject to a condition imposing a time-limit within which the development authorised must be started. The section specifies a period of five years from the date of the permission. Where planning permission is granted without a condition limiting the duration of the planning permission, it is deemed to be granted subject to the condition that the development to which it relates must be begun not later than the expiration of 5 years beginning with the grant of permission.

#### Time-limits on outline permissions

Grants of outline planning permission must, under section 92 of the Act, be made subject to conditions imposing two types time-limit, one within which applications must be made for the approval of reserved matters and a second within which the development itself must be started. The periods specified in the section are three years from the grant of outline permission for the submission of applications for approval of reserved matters, and either five years from the grant of permission, or two years from the final approval of the last of the reserved matters, whichever is the longer, for starting the development.

#### Variation from standard time-limits

If the authority consider it appropriate on planning grounds they may use longer or shorter periods than those specified in the Act, but must give their reasons for so doing.

### **STANDARD NOTES**

- a. Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developer's) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

- b. The enclosed notes which set out the rights of applicants who are aggrieved by the Council's decision.
- c. This planning permission does not convey any approval or consent required by Building Regulations or any other legislation or covenant nor permits you to build on, over or under your neighbour's land (trespass is a civil matter).

To determine whether your building work requires Building Regulation approval, or for other services provided by the Council's Building Control Section, you should contact that Section on 01656 643408 or at:- <http://www.bridgend.gov.uk/buildingcontrol>

- d. Developers are advised to contact the statutory undertakers as to whether any of their apparatus would be affected by the development
- e. Attention is drawn to the provisions of the party wall etc. act 1996
- f. Attention is drawn to the provisions of the Wildlife and Countryside Act 1981 and in particular to the need to not disturb nesting bird and protected species and their habitats.
- g. If your proposal relates to residential development requiring street naming you need to contact 01656 643136
- h. If you are participating in the DIY House Builders and Converters scheme the resultant VAT reclaim will be dealt with at the Chester VAT office (tel: 01244 684221)
- i. Developers are advised to contact the Environment and Energy helpline (tel: 0800 585794) and/or the energy efficiency advice centre (tel: 0800 512012) for advice on the efficient use of resources. Developers are also referred to Welsh Government Practice Guidance: Renewable and Low Carbon Energy in Buildings (July 2012):-  
<http://wales.gov.uk/topics/planning/policy/guidanceandleaflets/energyinbuildings/?lang=en>
- j. Where appropriate, in order to make the development accessible for all those who might use the facility, the scheme must conform to the provisions of the Disability Discrimination Act 1995 as amended by the Disability Discrimination Act 2005. Your attention is also drawn to the Code of Practice relating to the Disability Discrimination Act 1995 Part iii (Rights of Access to Goods, Facilities and Services)
- k. If your development lies within a coal mining area, you should take account of any coal mining related hazards to stability in your proposals. Developers must also seek permission from the Coal Authority before undertaking any operations that involves entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on 0845 7626848 or [www.coal.gov.uk](http://www.coal.gov.uk)
- l. If your development lies within a limestone area you should take account of any limestone hazards to stability in your proposals. You are advised to engage a Consultant Engineer prior to commencing development in order to certify that proper site investigations have been carried out at the site sufficient to establish the ground precautions in relation to the proposed development and what precautions should be adopted in the design and construction of the proposed building(s) in order to minimise any damage which might arise as a result of the ground conditions.
- m. The Local Planning Authority will only consider minor amendments to approved development by the submission of an application under section 96A of the Town and Country Planning Act 1990. The following amendments will require a fresh application:-
  - re-siting of building(s) nearer any existing building or more than 250mm in any other direction;
  - increase in the volume of a building;
  - increase in the height of a building;
  - changes to the site area;
  - changes which conflict with a condition;
  - additional or repositioned windows / doors / openings within 21m of an existing building;
  - changes which alter the nature or description of the development;
  - new works or elements not part of the original scheme;
  - new works or elements not considered by an environmental statement submitted with the application.



- n. The developer shall notify the Planning Department on 01656 643155 / 643157 of the date of commencement of development or complete and return the Commencement Card (enclosed with this Notice).
- o. The presence of any significant unsuspected contamination, which becomes evident during the development of the site, should be brought to the attention of the Public Protection section of the Legal and Regulatory Services directorate. Developers may wish to refer to 'Land Contamination: A Guide for Developers' on the Public Protection Web Page.
- p. Any builder's debris/rubble must be disposed of in an authorised manner in accordance with the Duty of Care under the Waste Regulations.

## **THE SITE INSPECTION PROTOCOL**

The Site Inspection Protocol is as follows:-

### **Purpose**

#### **Fact Finding**

Development Control Committee site visits are not meetings where decisions are made and neither are they public meetings. They are essentially fact finding exercises, held for the benefit of Members, where a proposed development may be difficult to visualise from the plans and supporting material. They may be necessary for careful consideration of relationships to adjoining property or the general vicinity of the proposal due to its scale or effect on a listed building or conservation area.

### **Request for a Site Visit**

#### **Ward Member request for Site Visit**

Site visits can be costly and cause delays so it is important that they are only held where necessary normally on the day prior to Committee and where there is a material planning objection.

Site visits, whether Site Panel or Committee, are held pursuant to:-

1. a decision of the Chair of the Development Control Committee (or in his/her absence the Vice Chair) or
2. a request received within the prescribed consultation period from a local Ward Member or another Member consulted because the application significantly affects the other ward, and where a material planning objection has been received by the Development Department from a statutory consultee or local resident.

A request for a site visit made by the local Ward Member, or another Member in response to being consulted on the proposed development, must be submitted in writing, or electronically, within 21 days of the date they were notified of the application and shall clearly indicate the planning reasons for the visit.

Site visits can not be undertaken for inappropriate reasons (see below).

The Development Control Committee can also decide to convene a Site Panel or Committee Site Visit.

### **Inappropriate Site Visit**

Examples where a site visit would not normally be appropriate include where:-

- purely policy matters or issues of principle are an issue
- to consider boundary or neighbour disputes
- issues of competition
- loss of property values
- any other issues which are not material planning considerations
- where Councillors have already visited the site within the last 12 months, except in exceptional circumstances

### **Format and Conduct at the Site Visit**

#### **Attendance**

Members of the Development Control Committee, the local Ward Member and the relevant Town or Community Council will be notified in advance of any visit. The applicant and/or the applicant's agent will also be informed as will the first person registering an intent to speak at Committee but it will be made clear that representations cannot be made during the course of the visit.

### **Officer Advice**

The Chair will invite the Planning Officer to briefly outline the proposals and point out the key issues raised by the application and of any vantage points from which the site should be viewed. Members may ask questions and seek clarification and Officers will respond. The applicant or agent will be invited by the Chairman to clarify aspects of the development.

The local Ward Member(s), one objector who has registered a request to speak at Committee (whether a local resident or Town/Community Council representative) and a Town/Community Council representative will be allowed to clarify any points of objection, both only in respect of any features of the site, or its locality, which are relevant to the determination of the planning application.

Any statement or discussion concerning the principles and policies applicable to the development or to the merits of the proposal will not be allowed.

### **Code of Conduct**

Although site visits are not part of the formal Committee consideration of the application, the Code of Conduct still applies to site visits and Councillors should have regard to the guidance on declarations of personal interests.

### **Record Keeping**

A file record will be kept of those attending the site visit.

### **Site Visit Summary**

In summary site visits are: -

- a fact finding exercise.
- not part of the formal Committee meeting and therefore public rights of attendance do not apply.
- to enable Officers to point out relevant features.
- to enable questions to be asked on site for clarification. However, discussions on the application will only take place at the subsequent Committee.

### **Frequently Used Planning Acronyms**

AONB	Area Of Outstanding Natural Beauty	PINS	Planning Inspectorate
APN	Agricultural Prior Notification	PPW	Planning Policy Wales
BREEM	Building Research Establishment Environmental Assessment Method	S.106	Section 106 Agreement
CA	Conservation Area	SA	Sustainability Appraisal
CAC	Conservation Area Consent	SAC	Special Area of Conservation
CIL	Community Infrastructure Levy	SEA	Strategic Environmental Assessment
DAS	Design and Access Statement	SINC	Sites of Importance for Nature Conservation
DPN	Demolition Prior Notification	SPG	Supplementary Planning Guidance
EIA	Environmental Impact Assessment	SSSI	Site of Special Scientific Interest
ES	Environmental Statement	TAN	Technical Advice Note
FCA	Flood Consequences Assessment	TIA	Transport Impact Assessment
GPDO	General Permitted Development Order	TPN	Telecommunications Prior Notification
LB	Listed Building	TPO	Tree Preservation Order
LBC	Listed Building Consent	UCO	Use Classes Order
LDP	Local Development Plan	UDP	Unitary Development Plan
LPA	Local Planning Authority		

**REFERENCE:** P/21/605/FUL

**APPLICANT:** Mr & Mrs N Heard c/o John Matthews, Anglesey House, 47 Anglesey Way, Porthcawl, CF36 3QP

**LOCATION:** 20 Shakespeare Avenue Cefn Glas CF31 4RY

**PROPOSAL:** Change of use from dwelling house (use class 3(a)) to the residential care of 1 child (use class C2)

**RECEIVED:** 25 June 2021

**SITE INSPECTED:** 27 July 2021

## **UPDATE SINCE DC COMMITTEE MEETING OF 19 AUGUST 2021**

The application was considered by Development Control Committee on 19 August 2021. It proposes the change of use of a dwelling house (Use Class 3(a)) to a small residential care home for 1 child (Use Class C2) at 20 Shakespeare Avenue, Cefn Glas.

The report from the Group Manager Planning and Development Services recommended that full consent be granted in view of a recent appeal decision that had been issued by the Planning Inspectorate regarding the use of residential dwellings for the residential care of children.

However, following further comments from the Local Ward Member and a local resident regarding the availability of evidence of previous anti-social behaviour surrounding the recent use of the property as an unregistered facility, Members considered that it would be more transparent if the application was deferred to allow further consultation with local residents and to give them an opportunity to submit additional evidence.

Since the last Committee meeting, the applicant's agent has provided further clarification and submitted additional details regarding the previous use of the property as follows:

- *Bridgend County Borough Council rented the property from my clients in order to provide care for one teenager boy.*
- *The boy's care was, therefore, provided under the auspices of the Council's Social Services Department, which in turn engaged my clients' company to provide the necessary care for the boy.*
- *At that time, the Council and my clients' company understood that the use fell under use class C3 dwelling houses and that planning permission was not therefore required.*
- *It became clear that the boy displayed significant antisocial behaviour and that he was therefore an unsuitable candidate for the type and level of care provided at the property. My clients' company accordingly decided to withdraw the provision of care and the boy was relocated by the Council's Social Services Department.*

Further to the re-consultation process with local residents, as requested by Members, the Local Planning Authority has received five objections from neighbouring properties regarding the proposed development, all of which raise the same concerns as previously summarised within the original Officer report. No further evidence in the form of Police records or the like have been submitted for further consideration by the Local Planning Authority.

In view of the above and the fact that no tangible evidence has been submitted to demonstrate that the creation of a children's care home in this location would result in anti-social behaviour or crime, Members are advised that the application is recommended for approval because the development complies with Council policy as the proposed children's care home would be a residential type use in a residential area and there is no objection in principle to this use in this location.

Also, given the relatively small-scale nature of the use and on the basis of the information provided by the applicant, it is considered that the proposal would not result in any comings and goings in excess of those which could reasonably be expected in a residential setting. It is not within the remit of the Planning system to manage the operation of the care home as this is covered by other legislation and managed by the Care Inspectorate of Wales. The care home would have to be registered with the Care Inspectorate of Wales and comply with all the necessary legislation that ensures the care home is run to an appropriate standard.

The proposed parking arrangement would meet the standards set out within Supplementary Planning Guidance 17 and the Highway Authority has not raised any highway safety concerns. A Planning condition has also been suggested to restrict the use to a children's care home only and limiting the number of children living in the home to a maximum of one at any one time.

Members are also reminded that the determination of planning applications must be made on sound and material planning grounds and any refusal must be suitably backed up by appropriate evidence.

Therefore, taking into consideration the recent Inspector's appeal decision regarding residential care homes within residential areas and the concerns raised by the Local Ward Member, Community Council and local residents, in this case on balance, they do not outweigh the other material issues connected to the development as to warrant refusal on those grounds.

Reproduced below is a copy of the original report:-

#### **APPLICATION/SITE DESCRIPTION**

The application seeks full planning permission for the change of use from a dwelling house (use class 3(a)) to the residential care of 1 child (use class C2) at 20 Shakespeare Avenue, Cefn Glas.

This application is for the residential care of one child under 18 years of age and who is classed as vulnerable. The use will be subject to registration by the Care Inspectorate of Wales and the child will be in full-time care with a fully trained carer looking after him or her throughout the day and night with the exception of when he or she is in school. Each carer will work to 12-hour shifts with daily shift change-over times normally taking place at 07.00 and 19.00 hours respectively. The night-time carer will be a night shift worker and must stay awake and available should the child wake and require anything.

The child in care is classed as vulnerable as they come from a difficult background/home circumstances. Whilst some may have learning difficulties, they are victims of circumstances and are simply in need of proper care and attention.

No external alterations are proposed to the property as part of this application.

**Figure 1 - Photograph of Existing Property:**



The applicant's agent has confirmed that the existing dwelling is currently served by two off street parking spaces and a garage, i.e. three parking spaces in total.

The application site is located within the approved residential settlement boundary of Bridgend as defined by Policy PLA1 of the Bridgend Local Development Plan (2013). The application property comprises of a two storey, semi-detached property that is served by a front and rear garden with a side, ground floor porch, detached garage and side driveway which is set back off the main highway (known as Shakespeare Avenue) and is surrounded by similarly designed residential properties. The application site is located within a predominantly residential area.

**Figure 2 – Site Location Plan:**



## **RELEVANT HISTORY**

None.

## **PUBLICITY**

Neighbours have been notified of the receipt of the application. The period allowed for response to consultations/publicity expired on 3 August 2021.

## **CONSULTATION RESPONSES**

Laleston Community Council - would like to Object to this planning application due to the following reasons:

- The property in question has previously been utilised as care facility, with no preceding request for planning permission, and caused much disturbance to neighbouring properties due to anti-social behaviour.
- Due to aforementioned anti-social issues in previous years, there is a great concern regarding the possible noise and disturbance resulting from use, which is only exacerbated by the lack of supervisory or regulated arrangements including that of BCBC Social Services.
- Council are aware of the need to aid vulnerable children and due to the fact that there is no evidence that a child living at this property would create disturbances or cause an increase to antisocial behaviour, Council would like to recommend that if permission is granted for the change of use, it only be provided on a temporary basis to enable the impact of the proposal to be fully assessed.

Transportation Officer (Highways) – No objection to the proposed development.

Shared Regulatory Services (Noise) –There is very little information on the planning portal regarding this development. However, having spoken to the agent, the care home is to be used for vulnerable children as opposed to children with severe behavioural problems. Therefore, on this basis, no objection is raised to the proposed development.

## **REPRESENTATIONS RECEIVED**

Cllr Charles Smith (Local Ward Member) – has raised an objection to the proposed development and has requested that it be reported to, and determined by, the Council's Planning Committee for the following reasons:

- Placing what is clearly a business enterprise in a residential area is inappropriate;
- The relationship between this business enterprise and BCBC social services is not clear, so the degree of professional supervision of circumstances at this location is uncertain;
- Neighbours provide evidence of serious issues arising when a similar arrangement was tried previously. They claim that the police and other agencies seemed powerless to prevent disturbance and threats to neighbours;
- Likelihood of nuisance to immediate and nearby neighbours;
- Lack of consultation with persons affected in the neighbourhood.
- Insufficient evidence of appraisal of alternative arrangements for the young client.

Three letters of objection have also been received from the neighbouring properties known as 18, 51 and 55 Shakespeare Avenue raising the following concerns:

- Concerns regarding the occupants of the property;
- Impact of noise and disruption of the proposed use;

- Limited parking on a busy street;
- Unacceptable previous experience of use of property for similar use;
- Property is unsuitable due to close proximity to neighbouring properties and concerned that previous circumstances will be re-visited.

## **COMMENTS ON REPRESENTATIONS RECEIVED**

The concerns raised are addressed within the appraisal section of this report.

## **PLANNING POLICIES**

### **Local Policies**

The Development Plan for the area comprises the Bridgend Local Development Plan 2006-2021, which was formally adopted by the Council in September 2013, and within which the following policies are of relevance:

- Strategic Policy SP1 – Regeneration-Led Development
- Strategic Policy SP2 – Design and Sustainable Place Making
- Strategic Policy SP3 – Strategic Transport Planning Principles
- Policy SP12 – Housing
- Policy PLA1 – Settlement Hierarchy and Urban Management
- Policy PLA11 – Parking Standards
- Policy COM3 – Residential Re-Use of a Building or Land

### **Supplementary Planning Guidance**

SPG02 – Householder Development

SPG17 – Parking Standards

### **National Planning Policy and Guidance**

National Planning guidance in the form of Planning Policy Wales (Edition 11, February 2021) (PPW) and Future Wales – the National Plan 2040 (Feb. 2021) are of relevance to the determination of this application.

### **Technical Advice Notes:**

Technical Advice Note 12: Design (2016):

Technical Advice Note 18: Transport (2007)

### **Other Relevant Policies:**

#### Biodiversity/Ecology

Section 40 of the Natural Environment and Rural Communities Act 2006 states that ‘every public authority must, in exercising its function, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity’. This “duty to conserve biodiversity” has been replaced by a “biodiversity and resilience of ecosystems duty” under Section 6 of the Environment (Wales) Act 2016 which came into force on 21st March, 2016.

Section 6 (1) states that “a public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions.” Section 6(2) goes on to state that “In complying with subsection (1), a public authority must take account of the resilience of ecosystems, in particular (a) diversity between and within ecosystems; (b) the connections between and within ecosystems; (c) the scale of ecosystems; (d) the condition of ecosystems (including their structure and functioning); and, (e) the adaptability of ecosystems.

Regulation 9 of the Conservation of Habitats & Species Regulations 2010 requires LPAs

to take account of the presence of European Protected Species at development sites. If they are present and affected by the development proposals, the Local Planning Authority must establish whether "the three tests" have been met, prior to determining the application. The three tests that must be satisfied are:

1. That the development is "in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment".
2. That there is "no satisfactory alternative"
3. That the derogation is "not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range"

Given the nature of the development in this instance (change of use proposal of an existing building), it is considered that there will be no significant adverse residual impacts on biodiversity. Therefore, the proposal is considered to comply with the requirements of the Habitats Regulations 1994 (as amended), Section 6 of the Environment (Wales) Act 2016, guidance contained within TAN 5: Nature Conservation and Planning (2009) and relevant LDP policies.

### **Well-being of Future Generations Act 2015**

The Well-being of Future Generations Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles to act in a manner which seeks to ensure that the needs of the present are met without comprising the ability of future generations to meet their own needs (Section 5).

The well-being goals identified in the act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of well-being goals/objectives as a result of the proposed development.

### **The Socio Economic Duty**

The Socio Economic Duty (under Part 1, Section 1 of the Equality Act 2010), which came in to force on 31 March, 2021, has the overall aim of delivering better outcomes for those who experience socio-economic disadvantage and, whilst this is not a strategic decision, the duty has been considered in the assessment of this application.

### **APPRAISAL**

The application is referred to Committee to consider the representations made by the Local Ward Member, Laleston Community Council and local residents.

The application seeks full Planning permission for the change of use from a dwelling house (use class 3(a)) to the residential care of one child (use class C2).

The following main issues will be considered as part of this report:

- The principle of development – use class
- The impact on the amenities of neighbouring residents



- Parking and Highways Safety
- Residents' perception/fear of crime and antisocial behaviour
- Impact on visual amenities.

### **The Principle of development – Use Class**

The proposal seeks to change the use of the existing dwelling house (from use class C3(a)) to a small care home for the residential care of 1 child (use class C2).

The C2 use class encompasses a number of different uses, including other types of residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres. The C2 use class is distinct from the C2a use class, which groups together secure residential institutions, such as prisons, young offenders' institutions and secure hospitals.

In some circumstances, residential dwelling houses can be converted into children's care homes without the need for Planning permission. Each proposal has to be assessed on its own merits taking account of various factors, such as level and operational aspects of care.

The C3 use class, which encompasses residential dwelling houses, is split into the following three categories:-

- A dwelling house lived in by a single person or family. This category would include foster families.
- Up to 6 people living as a single household and receiving care. This includes supported housing schemes, such as for people with mental health issues or learning disabilities.
- Up to 6 people living as a single household, which do not fall within a C4 use (small house in multiple occupation), such as religious communities.

A recent Court judgement concluded that although adult carers will be present at all times they would not be living permanently at the property as part of a 'household' and a group of young people containing individuals under eighteen could not reasonably be regarded as being capable of living together as a single household.

In addition, the level of daily activity at the site would be more intensive and constant than might reasonably be expected to be generated by even a large dwelling house and as such, the overall character of the use may differ materially from that of a dwelling house. In view of this, it was considered that such a proposal represents a material change of use and therefore, the use would fall within Use Class C2.

In this case, however, the property will accommodate 1 child and 2 adult carers in a residential area which would display many similar features associated with a family dwelling. The changeover of carers would occur every 12 hours at 7am and 7pm.

The application site is located within the settlement boundary of Bridgend, as defined by Policy PLA1 of the Bridgend Local Development Plan (LDP) 2006-2021 and, as such, the conversion of this existing building into a small scale care home of the nature proposed is considered to accord with the criteria set out in Policy COM3 of the LDP and Planning Policy Wales (2018) which supports the use of suitable previously developed land for residential purposes as it can assist regeneration and at the same time relieve pressure for development on greenfield sites.

Furthermore, Strategic Policy SP1 seeks to encourage regeneration led development within the settlement hierarchy and it is considered that the proposed change of use of the

existing building to another form of residential use in such a locality is compatible with surrounding land uses and is acceptable. It is considered that the proposed development is located within a sustainable location being located close to public transport links and local amenities which would be of benefit to potential future occupiers and staff at the premises.

In view of this, the proposed development is considered to accord with Strategic Policy SP1 and Policies PLA1, COM3 and SP10 of the Bridgend Local Development Plan (2006-2021) and can be supported in principle.

As detailed above, the semi-detached property is situated within the residential settlement boundary of Bridgend and it is considered that the conversion of an existing dwelling to a care home of the nature proposed, with no external or internal works proposed and with the visual character of the property being retained, would provide a valuable alternative type of living accommodation in the locality without harmfully or significantly eroding the character and appearance of the existing area.

The essential character of the area is derived from single households and the introduction of a small-scale care home of the nature proposed, which is appropriate in a residential setting, can be supported. Furthermore, the proposal is for a small one-person care home which is residential in nature and as such, it would not result in an undue concentration of incompatible uses in this location.

Notwithstanding the above, whilst the principle of a residential use, such as a care home, within a residential area is accepted and common place, it is necessary to consider the aspects of this proposed use which may have the potential to adversely affect the residential amenities of the area.

### **Impact on the amenities of neighbouring residents**

Planning applications must be determined in accordance with the adopted Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 refers).

Policy SP2 (Design and Sustainable Place Making) in particular states:

*All development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment by:*

1. *Complying with all relevant national policy and guidance where appropriate;*
2. *Having a design of the highest quality possible, whilst respecting and enhancing local*
3. *distinctiveness and landscape character;*
4. *Being of an appropriate scale, size and prominence;*
5. *Using land efficiently by:*
  - (i) *being of a density which maximises the development potential of the land*
  - (ii) *whilst respecting that of the surrounding development; and*
  - (iii) *having a preference for development on previously developed land over*
  - (iv) *greenfield land;*
6. *Providing for an appropriate mix of land uses;*
7. *Having good walking, cycling, public transport and road connections within and outside the site to ensure efficient access;*
8. *Minimising opportunities for crime to be generated or increased;*
9. *Avoiding or minimising noise, air, soil and water pollution;*

10. *Incorporating methods to ensure the site is free from contamination (including invasive species);*
11. *Safeguarding and enhancing biodiversity and green infrastructure;*
12. *Ensuring equality of access by all;*
13. *Ensuring that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected;*
14. *Incorporating appropriate arrangements for the disposal of foul sewage, waste and water;*
15. *Make a positive contribution towards tackling the causes of, and adapting to the impacts of Climate Change; and*
16. *Appropriately contributing towards local, physical, social and community infrastructure which is affected by the development.*

Local residents have raised a number of concerns regarding the impact that the care home would have on the residential amenities of neighbouring properties. There are three main strands to these concerns:-

- the potential noise and disturbance caused by additional comings and goings, relating to the institutional use of the site;
- the potential disturbance, resulting from the child's behaviour; and,
- the age group of existing residents.

The supporting statement advises that the home would accommodate one child under the age of 18. The applicant has confirmed that the home would be registered with the Care Inspectorate of Wales if Planning permission is granted. It should be noted that registration with the overseeing body is not a requirement to grant planning permission but is a separate regulatory process.

There will be a fully trained carer looking after the child throughout the day and night apart from when the child is at school. Each carer will work to 12-hour shifts with daily shift changeover times normally taking place at 07.00 and 19.00 hours respectively. The night-time carer will be a night shift worker and must stay awake and available should the child wake and require assistance. Parking will be provided for vehicles at the side of the property with a maximum of two cars at the property at handover time. On the basis, that the staff could all arrive and leave individually, that would result in a minimum of 4 staff movements to and from the property per day.

The handover times (7am and 7pm) are at the quieter times of the day, where comings and goings could be more noticeable and disruptive to nearby residents. However, the property is located on a main road with its own off-street parking and the hand over will take place at times when residents are likely to be leaving for or returning to work. These changeover hours are, therefore, considered to be reasonable.

In terms of the level of amenity, the plot benefits from an enclosed front and rear garden that would provide a form of external amenity area and waste/recycling bin storage areas to potential future residents of the premises. No details have been provided of any regular visitors to the property, however, it would not be reasonable or enforceable in Planning terms to restrict, by use of a Planning condition, who could visit the property and when, as well as the number of visitors present on the site at any one time.

Such a condition would go beyond the remit of the Planning system as it could potentially interfere with the operational functioning of the home, affecting how and when key visitors, such as social workers and health visitors could attend the property. It would also be impossible to monitor.

Whilst the maximum number of children placed at the home is limited to one (and this can be controlled by a Planning condition), the precise operational requirements of the use are not known and will ultimately be controlled by the requirements of the Care Inspectorate of Wales. Previously, temporary Planning permission has been granted to allow a “trial run” in order to assess the effect of the development on the area of such a proposed use, however, a recent appeal decision (Appeal Ref APP/F6915/A/121/3266841) for a similar type of development (subject to this application) against a condition for temporary planning permission was allowed stating that:

Guidance regarding the imposition of planning conditions is set out in the Welsh Government Circular 016/2014 ‘The Use of Planning Conditions for Development Management’ (‘the Circular’). Paragraph 5.23 advises that it will rarely be necessary to grant temporary permission for development which conforms with the provisions of the development plan. The material considerations to which regard must be had in granting permission are not limited or made different by a decision to make the permission a temporary one. The reason for granting a temporary permission should never be that a time limit is necessary because of the effect of the development on the amenity of the area.

Therefore, the Inspector found the temporary permission condition and a condition regarding the keeping of an up-to-date register for visitors to the property to be unreasonable and unnecessary. The Inspector also concluded that the removal of these conditions would not result in any harm to the general amenities of the area, amenity of neighbouring residents or result in any conflict with Policy SP2 of the BLDP(2013).

A full copy of the appeal decision has been attached as Appendix A to this report.

In view of the above and in terms of the likely impact on the residential amenities of the neighbouring properties, with particular reference to the immediate residents of Shakespeare Avenue, it is considered that the proposed use, by virtue of the low number of residents, would not unreasonably compromise the level of amenity that is currently enjoyed and can be reasonably expected in such a locality.

It is considered that the level of activity and other likely effects of the use would not significantly exceed what might be expected from the occupation of the existing house by a family. Given the relatively small-scale nature of the use, the level of movements to and from the property is not considered to intensify the use to the extent that it would be incompatible in this a residential area. Accordingly, there are no conditions, except for a cap on the maximum number of children, which could reasonably be imposed to ensure that the information submitted by the applicant is adhered to.

Taking into consideration the above, and the Inspector’s recent appeal decision, it is considered that the proposed use as a children’s care home for the care of one child under the age of 18 is acceptable and will not have a significant adverse impact on the existing amenities of the neighbouring properties which accords with Policy SP2(12) of the BLDP(2013) and the Council’s Supplementary Planning Guidance SPG02: Householder Development.

### **Residents’ perception/fear of crime and antisocial behaviour**

The objectors raise concerns that the proposed use will result in antisocial behaviour from the children and from potential visitors to the property due their previous experience of the use of the property for the same use as proposed subject to this application. Whilst it is noted that there is no planning history regarding the previous use of the site as a children’s care home, the applicant’s agent has also advised that it was not registered or

regulated by the Care Inspectorate of Wales, of which the use subject to this application will be fully registered and monitored by the relevant bodies.

The risk of crime and disorder and the perception of it arising from the proposed use is, in some instances, a material Planning consideration. In order to carry weight in the determination of a Planning proposal, fear of crime must be based on sound reasons and there needs to be reasonable evidential basis for that fear. No material planning evidence has been provided to demonstrate this.

Objectors' concerns and anxieties about the proposed use are acknowledged but there is no solid evidence to demonstrate that the change of use of the dwelling to a small children's care home would result in a spike in antisocial behaviour in the neighbourhood. Proposals for care homes are not an uncommon occurrence nationally and Planning appeal decisions relating to similar proposals have concluded that it cannot be assumed that children living in care would be more likely to behave antisocially or create levels of noise over and above children living in a 'traditional' family unit. In appeal decisions Planning Inspectors take note that in a care home children would be cared for by specialist supervising staff and care workers who are able to deal with any situations that might arise.

It is the case that in addition to holding the relevant planning permissions, residential children's homes which accommodate children under 18 years old must be registered with the Care Inspectorate for Wales and it is a criminal offence to run a children's home which is not registered with this body. As part of this registration process, the applicant must demonstrate that they meet certain legal requirements set out within The Care Standards Act 2000 (Notification) (Wales) Regulations 2011, The Regulation and Inspection of Social Care (Wales) Act 2016 and The Children's Homes (Wales) (Amendment) Regulations 2017. The Care Inspectorate for Wales can take enforcement action where care homes have been shown to fall short of the legal requirements set out within the Acts and can remove a care home's licence. How the care home would function is a process that would need to be agreed as part of the registration process and as this is controlled by other legislation, it is not within the remit of the Planning system to seek to control the day to day functioning of the care home.

No evidence is available to demonstrate that the child living at this care home would create disturbances or cause an increase in other forms of antisocial behaviour. As such, whilst the fear and perception of crime is a material Planning consideration, there is no reasonable evidence base for the fear in this instance. A refusal cannot be justified on the grounds of residents' fear of crime in this case.

### **Parking and Highways safety**

Criterion (6) of Policy SP2 states that developments should have good walking, cycling, public transport and road connections to ensure efficient access to the site and this is supplemented by Supplementary Planning Guidance 17 which requires 1 space per resident staff, 1 space per non-resident staff and 1 visitor's space per 4 beds.

It is noted that the existing dwelling is a 2 bedroom property which would generate a parking requirement for 2 spaces. Currently there is a driveway which can provide two spaces albeit it is constrained by the side porch, however, there is evidence to show a car parked beyond it. The proposed use of a care home for a single child and two non-resident members of care staff would also generate a parking requirement for only 2 spaces (1 per 3 non-resident staff = 1 space + 1 visitor space per 4 beds). Accordingly, the proposed use is not considered to generate any greater movements or parking than the current use a residential dwelling therefore there are no highway capacity or safety

concerns and is considered that the parking provision would comply with Policy SP2(6) of the BLDP(2013) and the standards for staff with visitor parking being accommodated on-street states within the Council's Supplementary Planning Guidance SPG17: Parking Standards.

### **Visual amenities**

No material alterations are proposed to the exterior of the building and therefore it is considered that there would be no material harm to the character and appearance of the area which accords with Policy SP2(2) and SP2(3) of the BLDP(2013).

### **CONCLUSION**

This application is recommended for approval because the development complies with Council policy as the proposed children's care home would be a residential type use in a residential area and there is no objection in principle to this use in this location. Also, given the relatively small-scale nature of the use and on the basis of the information provided by the applicant, the proposal is not considered to result in any comings and goings in excess of those which could reasonably be expected in a residential area.

There is no tangible evidence to demonstrate that the creation of a children's care home in this location would result in anti-social behaviour or crime. Whilst the perception and fear of crime can be a material Planning consideration it must be based on sound evidence rather than anecdotal evidence.

It is not within the remit of the Planning system to manage the operation of the care home, as this is covered by other legislation and managed by the Care Inspectorate of Wales. The care home would have to be registered with the Care Inspectorate of Wales and comply with all the necessary legislation that ensures the care home is run to an appropriate standard.

The proposed parking arrangement would meet the standards set out within Supplementary Planning Guidance 17 and the Highway Authority has not raised any highway safety concerns.

A planning condition has been suggested, restricting the use to a children's care home only and limiting the number of children living in the home to a maximum of one at any one time.

Accordingly, it is considered that, on balance and having taken into consideration the concerns raised by the Local Ward Member, Community Council and local residents, in this case, they are not considered to outweigh the other material issues connected to the development as to warrant refusal on those grounds.

### **RECOMMENDATION**

(R02) That permission be GRANTED subject to the following condition(s):-

1. The premises shall be used as a residential care home for a maximum of one child and two care providers as specified in the application details and for no other purpose including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: To enable the Local Planning Authority to retain effective control over the use of the premises in the interests of safeguarding the general amenities of the area.

**JANINE NIGHTINGALE  
CORPORATE DIRECTOR COMMUNITIES**

**Background papers**  
None

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**REFERENCE:** P/21/237/RLX

**APPLICANT:** Severn Trent Green Power (Bridgend) Ltd The Stables, Radford, Chipping Norton, OX7 4EB

**LOCATION:** Stormy Down Anaerobic Digestion Facility Stormy Down CF33 4RS

**PROPOSAL:** Variation of conditions 1 and 7 of P/17/1047/RLX to permit an increase in food waste tonnage and associated layout amendments

**RECEIVED:** 17 March 2021

## **APPLICATION/SITE DESCRIPTION**

Severn Trent Green Power (Bridgend) Ltd currently operate an Anaerobic Digestion Facility (AD) on land at Stormy Down under a consent originally granted in May 2015 (P/14/700/FUL refers) and subsequently amended in 2018 (P/17/1047/RLX refers). This application seeks to vary condition 1 which listed the plans for the development and 7 which controlled the tonnage of waste that could be processed on site. The conditions are reproduced in full below:

*1. The development shall be carried out in accordance with the following approved plans and documents: plan numbers A312.1000 P001C, A312.1000 P003B, A312.1000 P004B and A312.1000 P005A received on 21 October 2014 and the Screen Planting Plan - DWG SD/02 (Revision A) received on 14 May 2018.*

*Reason: To avoid doubt and confusion as to the nature and extent of the approved development.*

*7. No more than 48,500 tonnes of waste annually shall be imported into the site for processing in the Anaerobic Digester operation hereby approved. Written records of tonnages imported into the site shall be available for inspection by Planning and Public Protection Officers on request at all reasonable times.*

*Reason: In the interests of highway safety.*

The revisions to condition 1 relate to the approved site plan and includes an extension on the southern side of the main reception building, measuring 10m x 8m. It will accommodate two pasteurisation tanks. The extension is identical in height and finishes to the main building. The other site amendment, as detailed on the Flare General Amendment drawing, is a minor increase in the height of the Gas Flare installed on site to a total height of 10m. The increase is approximately 100mm and is to enable the safe management of the additional biogas produced by the proposed increase in processing tonnage. The gas flare is only utilised in exceptional circumstance when the biogas cannot be processed through the Combined Heat and Power Engines.

The revision to condition 7 seeks to increase the waste tonnage processed in the facility from 48,500 to 95,000 tonnes of food waste per annum. A companion application has been submitted to Natural Resources Wales to vary the terms of the Environmental Permit for the facility.

The Planning statement submitted in support of this application confirms that the AD facility has been operational since December 2016, originally under the management of Agrivert Limited and since December 2018 under the ownership and management of Severn Trent Green Power (Bridgend) Limited. The table below sets out the annual waste tonnages the site has received since it began operating:

YEAR	TONNES OF WASTE IMPORTED
2017	44,702
2018	64,828
2019	59,564

**Fig. 1: Annual Waste Tonnages received at the site since it began operating**

The AD facility processes household waste from Bridgend, Swansea, Ceredigion, Powys, Pembrokeshire, Monmouthshire, Blaenau Gwent and Torfaen Councils. In 2018, waste from long-term Council contracts accounted for approximately 80% of the total waste inputs. In the future, it is expected population recycling rates in these areas will increase and therefore, the increase to 95,000 tonnes per annum is proposed to provide required capacity to continue treating the waste as close as possible to where it was created.

As well as a greater than anticipated demand for food waste recycling at the Stormy Down AD facility, the increased tonnages are driven by a desire to ensure the sustainability of the facility. As part of the treatment process there is a requirement to combine the solid waste with processing liquids at a ratio of approximately 1:1. By utilising waste liquids, such as compost leachate, drink waste and factory processing liquids, the applicant company are able to lessen the reliance of the process on potable water. Permitting the higher tonnages will enable the facility to continue providing a valuable recycling solution for organic liquid wastes as well as ensuring the sustainability of the site's liquid use.

By way of background and for Members consideration, Anaerobic Digestion is the process by which food waste is biologically treated in the absence of oxygen and light to produce renewable electricity and a high quality agricultural fertiliser. Solid and liquid wastes are delivered to the site in a range of vehicle types and sizes including Refuse Collection Vehicle (RCVs), bulkers and tankers. All delivery vehicles are weighed on the weighbridge and then proceed into the reception building. The imported wastes are deposited into a bunker or liquid tank before the vehicle exits the reception building. The vehicle is weighed again before leaving site. The waste is processed in the reception building which involves reducing the particle size and mixing with liquids before being pumped into the primary or secondary digesters. It remains within the digesters for approximately 90 days where it is gently heated and stirred to encourage the digestion process and biogas production. The biogas is fed into combined heat and power units to create electricity which is transmitted by National Grid via a high voltage connection after providing the electricity and heat required to operate the AD plant. The digestate end product is used as a replacement to artificial fertilisers, providing essential nutrients such as potassium, nitrogen and phosphate to the soil.

#### RELEVANT HISTORY

Application Reference	Description	Decision	Date
P/14/91/SOR	Screening Opinion for proposed anaerobic digestion facility (90,000 tonnes per annum)	EIA Not Required	10 March 2014
P/14/452/SOR	Screening Opinion for construction and operation of anaerobic digestion	EIA Not Required	25 July 2014

facility (48,500 tonnes per annum)

P/14/700/FUL	Anaerobic digestion facility for a 30-year period with associated building and works	Conditional Consent	6 May 2015
P/17/1047/RLX	Variation of Condition 1 of P/14/700/FUL to amend the approved plans	Conditional Consent	18 October 2018
P/18/663/FUL	Temporary 30-year full Planning permission for the development of a Biomethane Gas to Grid facility on land previously utilised as a recycling centre at Stormy Down Airfield	Conditional Consent	21 December 2018
P/20/363/NMA	Non-material amendment to P/17/1047/RLX to amend the approved Plans	NMA – Conditional Consent	4 September 2020

## CONSULTATION RESPONSES

### CONSULTEE

**Community Council**

### COMMENTS

Merthyr Mawr Community Council thanks BCBC for the opportunity to comment on this Planning application. Whilst this proposal is extremely important to local economy of the area this Council would like to object to its proposal under the following reasons:

#### **S106**

An S106 agreement was signed on routing of traffic to and from the site but not all the lorries and tractors are abiding by it. There is a high volume of traffic using Stormy Lane and not the approved route. Increasing the number of imports would certainly mean there would be even more traffic also not abiding by the agreement.

#### **Tonnage**

In 2018, the materials imported exceeded the limit by 16,838 tons. In 2019, the imports were exceeded by 11,564 tons. The applicant has supplied no figures for 2020 and one can only surmise that the tonnage was far in excess of the 48,000 tons permitted. There has been a noticeable increase in traffic to and from the site and increasing the imports to 100,000 tons would be the same as giving the operators carte blanche on the amount effectively being processed.

#### **Foul Odour**

There has always been occurrences of foul odour from the facility and allowing an increase in operations would give even more nuisance smell to the residents of Stormy Down. When the site was given approval, the residents were promised there would be no bad odours from the site and a complaint has been made to BCBC and Natural Resources Wales regarding this. The operator seems to have ignored the conditions of operation imposed when consent was permitted initially. Both the operator and Natural Resources Wales seem unable or unwilling to police the operations with the present limitations and therefore we would like to see no relaxation of conditions for the site.

The residents were here before the AD unit and should be protected from nuisances from the operators.

### **Suggestions**

The Council accepts that this Planning application may go ahead with or without our rejection of this application. The Council would like to suggest if this application should be accepted that the following items be noted to improve the area for local residence:

1. It has been stated by the operator that no foul odours emanate from the unit. It is not disputed that the anaerobic digester is, by definition, a sealed unit however it was noted by our councillors, when visiting the facility, that there is no airlock as the food waste enters the facility, our Council would therefore like to see further containment of the food waste before it enters the facility which could include an airlock to hold in any odours that may escape at the start of the process.
2. Tractors from local farms regularly collect waste from the facility although this is not stated on the S106 agreement and the Council would like to place the same restrictions on these activities, ensuring that they use the designated routeing.
3. The Council would like to stress the importance of following the designated route for vehicles entering the facility and leaving. We suggest, as a minimum, that better signage be placed in the area for all vehicles using the facility, keeping them on the route agreed in the S106. We would hope the company covers this expense. Given the history of vehicles not abiding by the designated route we would also like some sort of barrier such as road narrowing bollards to physically prevent lorries and tractors turning left out of the facility.
4. The Council would appreciate more stringent measure be put in place to ensure all agreements made within this planning application be followed with regular unexpected reviews of the facility. Further suggested is that an external auditor be sought to monitor the facility and continue to police the management, this is to alleviate any retrospective problems with the local residents that precede this facility.

There has been several complaints and problems with the facilities operations. We would like to stress that policing this facility is to the highest concern to this Council.

**Highways Officer**

No objection subject to conditions.

**Land Drainage**

No objection subject to conditions.

**Dwr Cymru/Welsh Water** No objection subject to conditions.

**Shared Regulatory Services** No objections subject to conditions.  
**Public Protection: Noise**

**Natural Resources Wales** We have no objection to the application as submitted. The application site overlies a principal aquifer so is highly sensitive with respect to groundwater. Furthermore, the application site is in proximity to a number of protected sites. NRW are interested to ensure that the significant increase in waste tonnage does not increase the risk to controlled waters or protected sites. These matters will be assessed during the variation to the existing Environmental Permit. Therefore, we have no objection to the variation of conditions 1 and 7 of P/17/1047/RLX.

## **REPRESENTATIONS RECEIVED**

The application has been advertised on site. Neighbours have been notified of the receipt of the application. The period allowed for response to consultations/publicity has expired.

A letter of objection have been received from the occupier of 1 Stormy Lane, Stormy Down. The following is a summary of the objections received:

- BCBC are either unwilling or unable to police the planning conditions of the above site and the operator seems to have no desire to police itself. Since consent was given, the site has annually imported more waste than consent was given for.
- Traffic to and from the site does not always abide by the S106 agreement
- The horrendous smell emitted is regularly making the residents feel sick - although green recycling initiatives are to be applauded, they should not have a severe detrimental effect on the residents who were here first. When planning consent was first given the residents were promised there would be no smell from the operation.

## **RESPONSE TO COMMENTS RECEIVED FROM THE COMMUNITY COUNCIL AND LOCAL RESIDENT**

The Council acknowledges that effective enforcement underpins the whole development management function. The responsibility for determining whether proposed development should be granted Planning permission rests initially with the Council as does the decision on whether unauthorised development should be allowed to continue or should be enforced against. In this case where complaints have been received regarding alleged Planning breaches associated with the operation of this site, they have been properly investigated. They have generally related to the company's alleged failure to follow the routeing agreement for vehicles entering and leaving the AD site. Witnessing such alleged Planning breaches has been challenging and thus far no formal action has been pursued. The Company recognises the concerns of residents and the Community Council and will act to ensure that the routeing agreement is followed. Stringent procedures are already in place for instructing and reminding drivers about the required route to and from the AD plant. Additional measures including signage will be secured through the grant of any Planning permission.

The Community Council has also referred to the increases in the tonnage of waste processed on site over recent years in breach of the condition imposed on the original consent. Whilst the Council will not condone the Company's actions, the increase has not resulted in any increases in trips above those considered as part of the original application. The Transport Assessment submitted in 2014 identified a potential peak in HGV trips of 102 movements per

day (Section 4.4 Arup Transport Statement dated 13 October 2014) and this figure was referenced in the Committee Report when it was concluded that with the imposition of conditions relating to highway widening works, direction signage and a limit on tonnage, this level of vehicle movements did not prevent the grant of Planning consent. There is no evidence before the Council to suggest that the increase in the tonnage processed has increased vehicle movements above the consented levels.

The Community Council correctly identified that a S106 agreement was signed in relation to the operation of the Anaerobic Digestion Facility at Parc Stormy. This S106 agrees the route by which Heavy Goods Vehicles (HGVs) shall access and egress the AD Facility and it also requires that the signage required by the original grant of Planning consent is retained and maintained for the duration of the site's operation. The final requirement of the S106 is that the owner/developer of the AD Facility should ensure that all HGV drivers are instructed to only use the route previously identified when entering or leaving the site.

STGP (the owner and operator of the site) has confirmed that every effort is made to ensure that the HGVs in the Stormy Down area for the purpose of attending the AD Facility are aware of and adhere to the prescribed access and egress route. All new customers/drivers are made aware of the routeing requirements prior to their first attendance at the site and once on site undergo a thorough induction process which sets out in some detail the routeing requirements. The company routinely reminds all drivers attending the AD Facility of these requirements. This applies to both waste delivery vehicles and digestate export vehicles (including tractor and trailers)

The applicant company has highlighted the number of industrial and agricultural activities going on in and around the Stormy Down area which are entirely independent of the AD operations. The company maintains that those vehicles using Stormy Lane may not be associated to the activities at the AD Facility and as such are not subject to the routeing restrictions set out in the S106 Agreement. However, the requirement for the operator to keep a record of complaints and provide publication of any breaches of the routeing agreement will allow complaints to be assessed more rigorously in the future.

All other concerns raised by the Community Council and resident will be considered in the appraisal section of the report.

## **RELEVANT POLICIES**

### **Local Policies**

The Bridgend Local Development Plan 2006-2021 (LDP) was formally adopted by the Council in September 2013 and within which the following Policies and supplementary Planning guidance are relevant:

<b>Policy SP2</b>	Design and Sustainable Place Making
<b>Policy PLA4</b>	Climate Change and Peak Oil
<b>Policy SP3</b>	Strategic Transport Planning Principles
<b>Policy PLA5</b>	Development in Transport Corridors (Pencoed to Pyle)
<b>Policy PLA11</b>	Parking Standards
<b>Policy SP4</b>	Conservation and Enhancement of the Natural Environment
<b>Policy ENV5</b>	Green Infrastructure
<b>Policy ENV6</b>	Nature Conservation
<b>Policy ENV7</b>	Natural Resource Protection and Public Health
<b>Policy SP6</b>	Minerals
<b>Policy ENV9</b>	Development in Mineral Safeguarding Areas
<b>Policy ENV10</b>	Development within Mineral Buffer Zones
<b>Policy ENV16</b>	Commercial and Industrial Waste
<b>Policy SP8</b>	Renewable Energy
<b>Policy ENV18</b>	Renewable Energy Developments
<b>Policy REG4</b>	Former Stormy Down Airfield - Temporary development of the former

Stormy Down Airfield will be permitted where it relates to/facilitates the creation of a cluster of innovative green industries.

**Policy SP14** Infrastructure

**National Policies**

In the determination of a Planning application regard should also be given to the requirements of National Planning Policy which are not duplicated in the Local Development Plan. The following Welsh Government Planning Policy is relevant to the determination of this Planning application:

**Future Wales – the National Plan 2040**

**Planning Policy Wales Edition 11**

<b>Planning Policy Wales TAN 5</b>	Nature Conservation and Planning
<b>Planning Policy Wales TAN 11</b>	Noise
<b>Planning Policy Wales TAN 12</b>	Design
<b>Planning Policy Wales TAN 18</b>	Transport
<b>Planning Policy Wales TAN 21</b>	Waste
<b>Planning Policy Wales TAN 23</b>	Economic Development

**WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015**

The Well-being of Future Generations Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles to act in a manner which seeks to ensure that the needs of the present are met without comprising the ability of future generations to meet their own needs (Section 5).

The well-being goals identified in the act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of well-being goals/objectives as a result of the proposed development.

**THE SOCIO ECONOMIC DUTY**

The Socio Economic Duty (under Part 1, Section 1 of the Equality Act 2010) which came in to force on 31 March 2021, has the overall aim of delivering better outcomes for those who experience socio-economic disadvantage and whilst this is not a strategic decision, the duty has been considered in the assessment of this application.

**APPRAISAL**

This application is referred to Committee in view of the objections received from the Community Council and a local resident.

This application is submitted under S.73 of The Town and Country Planning Act to vary conditions 1 and 7 of Planning consent P/14/700/FUL to agree changes to the main reception building and flue height and an increase in the tonnage of food waste that can be processed on site.

The main issues to be considered in the assessment of this application are as follows:

- Whether the continued use and proposed revisions to the conditions are compliant with national and local Planning policy

- Whether the changes to the building and flue and more particularly the increase in food waste that can be processed on site will have any significant effects on the living conditions and well-being of the nearest residents with regard to noise and air quality;
- Whether the increase in food waste that can be processed on site will have any adverse impacts on the highway network and by extension on highway safety;
- Whether the proposed changes to the conditions will have any impacts on land drainage, biodiversity or any other Planning interests of acknowledged importance.

**Whether the continued use and proposed revisions to the conditions are compliant with national and local Planning policy**

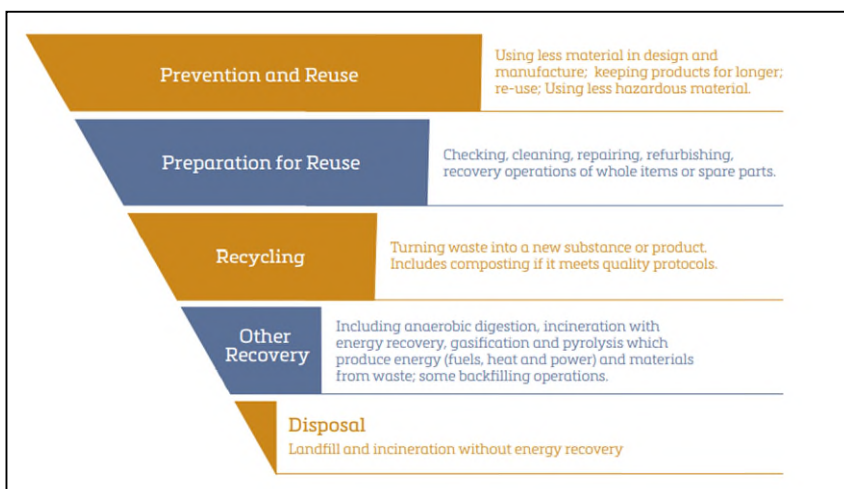
Since the original 2014 Planning decision, Welsh Government has published new Policy documents that are relevant to this application including Planning Policy Wales – Edition 11 – February 2021, Future Wales and Technical Advice Note 21: Waste (February 2017).

Welsh Governments Towards Zero Waste - Waste Strategy for Wales (June 2010) still informs national policy and advises that by 2050, as a minimum, the Welsh Government will have reduced the impact of waste by producing approximately 65% less than in 2010. A key objective to reduce Wales' greenhouse gas emissions is that waste needs to be diverted from landfill. The Strategy notes that the best way to treat most wastes away from landfill is for them to be recycled and specifically in the case of food waste, to be anaerobically digested. The strategy states 'anaerobic digestion has significant potential to reduce greenhouse gas emissions' and 'the use of AD is strongly recommended for source segregated food waste'.

The Planning system has an important role to play in facilitating sustainable waste management by providing a framework for decision making which recognises the social, economic and environmental benefits that can be realised from the management of waste as a resource to meet the needs of society and businesses whilst at the same time:

- minimising adverse environmental impacts and avoiding risks to human health;
- protecting areas of designated landscape and nature conservation from inappropriate development; and
- protecting the amenity of residents, of other land uses and users affected by existing or proposed waste management facilities.

Planning Authorities should be supportive of facilities that reflect the priority order of the waste hierarchy as far as possible (see below):



**Fig. 2: Waste Hierarchy**



Paragraph 5.13.7 of PPW indicates a move towards the reduction of disposal and recovery options for treating waste such as anaerobic digestion in favour of high volume source segregated collection followed by reprocessing as well as preparation for re-use and prevention. Due to the production of biogas and digestate in the anaerobic digestion process, the Technical Advice Note published in 2017 acknowledges that anaerobic digestion is considered to have a greater potential to reduce greenhouse gas emissions than other composting treatments.

The Local Planning Policy framework has not changed significantly since the original Planning consent for the AD facility. The application site is part of a larger allocation that facilitates 'innovative green industries' for a temporary period (Policy REG4 refers). The reference to temporary development is due to the site being located within a Limestone Resource Safeguarding Area designated under Policy ENV9. The more recent Planning consents on this site have been temporary, expiring in 2035 to ensure that the limestone resource can be extracted if required however, it has been established that there is enough limestone available to exceed this date and any permission can be granted temporary consent for a 30-year period. The site is also located within the Mineral Buffer Zone for the Cornelly Group of Quarries and as such Policy SP6 of the LDP is relevant however, given that the original consent was issued for a temporary period and that this revised application only seeks to amend conditions 1 and 7 and not the time limit of the permission, it is considered that the proposed development would not adversely affect the mineral reserves.

As the process of waste provides a biogas which when fed into a combined heat and power units creates electricity (renewable energy), Policies SP8 and ENV18 of the LDP are also relevant. Broad support for 'development that contributes to meeting national renewable energy and energy efficiency targets will be permitted where it can be demonstrated that there will be no significant adverse impacts on the environment and local communities'. Policy ENV18 provides more detailed criteria which will be considered further in this report.

In June 2010, the Council approved a Development Brief for Parc Stormy with the aim of controlling future development proposals without prejudicing the future mineral resources. Development would also need to be controlled so as not affect highway safety, privacy and visual amenity or harm neighbours residential amenity. The Brief informs future development proposals and forms a material part of the decision making process. One of the aims of the Brief is:

*To promote sustainable forms of development that helps Bridgend CBC to meet various policy targets set at a local and national level. The Brief also advises that encouragement will be given to proposals that have identifiable links with existing uses on the site. This would assist in achieving synergy on site between different uses, achieving economies of scale in traffic movements, use of energy and boundary treatments. In this way, a cluster of 'Innovative Green Industries' could be created to assist the County Borough in meeting the ambitious carbon reduction policies of the Welsh Assembly Government.*

Having regard to the above national and local policies and the Development Brief, the principle of the proposed changes to the existing consent are considered acceptable.

**Whether the changes to the building and flue and more particularly the increase in food waste that can be processed on site will have any significant effects on the living conditions and well-being of the nearest residents with regard to noise and air quality;** National policy recognises the benefits of proposals to recycle and recover energy from waste but at the same time they must minimise any adverse environmental impacts and protect the amenity of residents. Policies SP2 and ENV18 provide the framework for such considerations at a local level.

Impacts on amenity with regard to this application relate to noise generated by activities on site including any increase in site traffic and whether the increased production of waste will result in

odours above that associated with the existing operation. Members will note that both the Community Council and the local resident have referred to the issue of odour.

The original Planning application was supported by a detailed Air Quality and Odour Assessment which concluded that the changes in odour profile in the local area as a result of the proposed AD Facility would not be significant. In support of this application Crestwood Environmental Ltd carried out an Air Quality and Odour Assessment. The report concluded that due to the low number of vehicle trips predicted to be generated by the increase in processing tonnage, the road traffic exhaust impacts were predicted to be not significant. Additionally, the odour effect because of the proposed increase to waste tonnages is negligible. The applicants maintain that this position has been reached due to the significant odour control measures that operate on site. These include the reception building being kept under negative pressure with an odour extraction and control system in place, automatic fast shutter doors on the entrance and exit points and a fully sealed digestion process. In particular, the fast shutter doors work on an induction loop operated automatically by vehicles as they drive up to the access doors and open fully within 3 seconds and close within 5 seconds. This is the most appropriate measure by which to control the ingress and egress from the reception building.

The facility is also permitted and monitored by Natural Resources Wales (NRW) which has prosecution powers as well as civil enforcement powers at its disposal in the case of serious or persistent breaches of regulations. NRW undertake announced and unannounced visits to the site to monitor the site's compliance with the operational permit and the AD Facility is subject to two monitoring audits by NRW a year, the most recent of which took place on the 25 May 2021 where no 'non-conformances' against the permit were recorded. Additionally, NRW responds to any complaints regarding operational impacts from the site that are received.

NRW recently undertook a visit to the AD Facility as a result of a received complaint. This visit took place on 19 May and the investigation was subsequently closed on 20 May as a result of the Environment Officer finding nothing to substantiate that the activities at the AD Facility were the cause of the complaint matter. The AD Facility operates in line with Best Available Techniques (BAT) in order to minimise and control the odour emissions from the facility. The concerns of the Community Council and resident have however been noted and they have been requested to address any further incidences of complaint to the site manager.

Members should note that no adverse comments have been received from Shared Regulatory Services or Natural Resources Wales concerning odours.

The applicant commissioned Crestwood Environmental Ltd to undertake a Noise Assessment to accompany the application and to assess the impact of the increase in processing capacity on the nearest noise sensitive receptors at Cae Cornel and Mount Pleasant Farm which are 220m and 980m respectively from the site. The report notes that the capacity increase can be managed via a modest extension of the main operational building, an increase in size (but not number) of vehicle deliveries and slight modification to the processing plant to operate within the maximum design capacity. The optimisation of the plant is expected to have a net zero effect on emitted noise levels. Noise levels were undertaken on site and it was noted that whilst the night time modelled noise levels at Cae Cornel fall within the guideline levels set out by the World Health Organisation (WHO2009) for the lowest-observed-adverse-effect-level (LOAEL) by 1dB, they exceed the limit set out by Condition 13 of the original consent. Although no noise complaints have been received in respect of this premises, due to the incremental developments on site it is important that there are no further increases in ambient and background noise levels to prevent 'background creep'. The applicant has advised that in order to ensure accordance with the implemented noise level condition, this application proposes mitigation to two of the noise producing plant elements on site to produce a 3-4 dB reduction in noise levels at the sensitive receptor locations in line with the recommendations of the acoustic report. These proposed mitigation measures include:

- Bio filter ductwork – stiffening the ductwork with bracing and enclosing the ductwork in absorptive cladding; and
- CHP Plants – Enclosure of the fan motors and condensers and acoustic barrier around roof mounted fans, pumps and valves.

Consequently, in terms of noise and subject to the implementation of the above mitigation works, the increased processing capacity and changes to the buildings should have no adverse impacts on the living conditions with regard to soundscape.

Based on the submitted evidence and the assessment by the relevant Officers in the Council and Natural Resources Wales, it is concluded that the variation of the conditions and the increase in processing capacity should not have any significant environmental impacts or adverse consequences on the living conditions and well-being of residents. The requirements of both national and local Planning policies are addressed in this regard.

**Whether the increase in food waste that can be processed on site will have any adverse impacts on the highway network and by extension on highway safety**

A Transport Statement has been submitted in support of this application. The document relies heavily on the outcomes of the previous Transport Assessment submitted as part of the original Planning application (P/14/700/FUL refers). The total maximum number of vehicle movements which were accepted as part of that application have been used as a fall-back position and base line for the assessment of this variation to the Planning conditions.

Vehicular access to the site is off an unnamed road which links Heol-y-Splott and Mount Pleasant Road with Stormy Lane. HGVs accessing and egressing the AD facility with waste are required to leave the site by turning left onto this road and proceeding down Heol-y-Splott to the A48. From there vehicles use Junction 37 to access the M4. The route seeks to protect the amenity of residents living on Stormy Lane and is secured through the related S106 agreement.

When Planning permission was granted in 2015, the traffic movements associated to the AD use were predicted to average 60 HGV movements (30 in/30 out) a day and peaking at up to 102 HGV movements (51 in/51 out) on up to 60 days per annum. Information submitted with this application indicates that whilst the tonnage of processed waste has exceeded the 48,500 tonnes in 2018 and 2019, the number of HGV movements associated to the AD facility in both of these years was well below the levels set out in the ARUP Traffic Assessment dated October 2014. It is contended that at the proposed tonnage level (95,000 tonnes per annum) and the associated digestate export level, the traffic flows remain below the predicted and accepted levels. This is largely due to a significant increase in the average payloads of the waste imports. The ARUP transport report anticipated an average payload of 10 tonnes however, in practice the data collected from 2017-2019 demonstrates an average waste import payload of 18.3 tonnes, significantly reducing the number of vehicles required to transport the waste.

The submitted Transport Statement has considered the impact of the increase in tonnage on vehicle movements associated to the AD facility and the corresponding impact upon highway safety. The report concludes that the proposed change in tonnage levels will not result in any greater impact on any given day than was previously assessed and approved by the 2015 application. The applicant company has agreed to enter into a revised S106 agreement for the routing agreement in line with this revised application.

Since the original grant of consent for the AD facility, the applicant company has constructed and utilised a digestate storage lagoon to the south west of the AD facility to manage the digestate output from the site. Due to this amendment in the management of digestate, HGVs associated to the export of digestate largely egress from the nearby Lagoon as opposed to the AD facility. In order to minimise and mitigate the impact of those vehicles on local amenity and

in the interests of highway safety, the applicant is offering to enter into an additional S106 agreement agreeing a safe route of travel for those vehicles using the digestate lagoon.

In assessing the Transport Statement, Officers have considered the methodology and the reliance on the data that formed part of the Transport Statement on the original application. This approach is not unusual but it does not take full account of the potential increase in traffic in the local area. There has been an expansion of existing businesses and most importantly the expansion of the Stormy Down site between 2014 and 2021 which equates to some 7 years in which traffic patterns and volumes can change.

The new Transport Statement has used the traffic count data from the Department for Transport counter on the A48 showing that daily traffic volumes (AADT) have decreased since 2014 and concluded that any corresponding increase in traffic generated by this proposal is acceptable. The Transport Statement does not however break down the mix of vehicles within the daily traffic volumes. Data shows that since 2014 the volume of HGVs passing through this counter have increased from 510 HGVs a day in 2013 to 598 HGVs in 2019. In addition, it should be noted that the Department for Transport counter is located approximately 3km from the application site entrance and the validity of such data cannot be wholly relied upon.

As a result of the above, there is concern that should the combined in and out peak traffic movements of 130 for the AD plant happen on a single day (as detailed in the submitted information), the local network may not be able to accommodate the proposal traffic as well as the background daily traffic. In order to overcome these concerns, it is recommended that a Planning condition be imposed to limit the vehicle movements to 102 vehicles (51 movements in and 51 movements out). This will ensure that the peak traffic movements on any given day will be within the previously consented limits and therefore a nil detriment from a highways perspective.

Concerning the impacts on the immediate highway network serving the site, the previous consent required a scheme of directional signage from the A48 to the site entrance and whilst this does assist in controlling movements, representations have been received regarding vehicles failing to follow the agreed route. Additional signage will therefore be required at the entrance/exit gates to the AD facility advising drivers to turn left only. The applicant's agent has questioned the validity of this requirement but in wishing to work with the Council and appease the concerns of residents, has agreed to such a condition being imposed subject to the wording reflecting the part-retrospective nature of the application.

A detailed assessment of the site access has confirmed that when HGV vehicles are emerging from the site then they are crossing the notional centre line and potentially crossing into the opposing traffic. Furthermore when turning into the site the HGVs are tracking onto the grass verge. The current design and geometry of the access is not accommodating the turning movements for the current HGVs. A widening of the access is, therefore, required through a condition.

The applicant company has noted that such a condition is essentially a replica of condition 10 imposed upon the original consent which required the submission and implementation of highway widening works. Whilst the details submitted for the condition were agreed, it appears that not all the junction improvements were undertaken. This will be rectified through the grant of this consent. The condition requiring the improvement will, therefore, be imposed on any permission granted.

Reference has already been made to a S106 Agreement to ensure that all HGV movements generated by the AD plant access the site via an agreed route. The routeing agreement ensured that HGV used the parts of the network that are capable of supporting HGV movements as well as protecting the amenity of the cluster of houses on Stormy Down. Whilst the S106 Agreement has been of benefit, there are HGV movements associated with the digestate lagoon which do not have to adhere to the routeing agreement. The applicant has

however agreed to now include those movements which is considered to provide a highway safety benefit especially on the Stormy Down Lane/A4106 priority junction opposite the Happy Valley Caravan Park.

To provide further assurances to the residents and to protect the local highway network, any future S106 Agreement will include a mechanism and clear line of complaint reporting. In addition, any complaints of HGVs not using the agreed route should be recorded for annual inspection by the Council to ensure that ad-hoc breaches are acknowledged and investigated and complainants are responded to. Currently there is no such mechanism and it is not clear if any routeing agreement breaches are solely down to the AD plant.

Subject to the imposition of the conditions referred to above and a Section 106 Agreement that will not only deliver a routeing agreement but also a requirement for the operator to keep a record of complaints and provide publication of any breaches of the routeing agreement, the changes proposed by the variation of the condition should not be detrimental to highway safety and will be compliant with national and local Planning policy.

### **Whether the proposed changes to the conditions will have any impacts on land drainage, biodiversity or any other Planning interest of acknowledged importance**

#### Site Drainage

As outlined within the original application, AD offers a completely sealed liquid management system all of which is enclosed within an impermeable stabilised soil containment bund. As such, any water that falls within the site boundary is adequately captured and utilised within the AD process. The amendments as outlined in this application are considered to have a negligible effect on the surface water and drainage. No adverse comments have been received from the Land Drainage Section.

#### Biodiversity Interests

Criterion (10) of Policy SP2 of the Local Development Plan (2013) seeks to safeguard and enhance biodiversity and green infrastructure. Supplementary Planning Guidance Note 19 Biodiversity and Development which encourages the protection and enhancement of the natural environment through safeguarding, enhancing, restoring and creating wildlife habitats, support this. An ecological survey conducted in support of the original application concluded that the application site was of low ecological value and with the exception of nesting birds, did not support any legally protected species. Site lighting was identified as possibly affecting species habitat on the adjoining land and the Site of Importance of Nature Conservation beyond (750m from the development boundary). Details of the lighting have been approved under application P/19/200/DOC. No changes are proposed as part of this application.

#### Landscape and Visual Impact

A Landscape and Visual Impact Assessment (LVIA) accompanied the original Planning application which assessed the impact of the visual changes arising from the development together with changes to the character and quality of the landscape. Photomontages were also provided. The LVIA concluded that the proposed development would only have an impact of 'slight significance' in the short term but reducing to 'neutral' as mitigation planting improves the quality and condition of the landscape and reduces visibility of the development. The changes proposed as part of this application have no significant impact with the increase in flue height being very modest. The landscaping secured as part of an earlier consent will assist in screening views from the north, south and east.

Overall, the visual impacts of the amended scheme in the short term are acceptable particularly given the context of the development with the larger wind turbines on Parc Stormy and Newton Down.

Impacts on historic archaeological interests were considered previously where it was noted that the site was on a former Airfield which was established during the 1930s as a training facility. It is understood that the airfield was built on an area where pre-historic and Roman

remains had been noted. The development of the new AD plant was not considered to impact on the archaeological features as they were likely to have been damaged by the previous development of the site. Mitigation in the form of an Archaeological Watching Brief during any ground disturbance was secured through the grant of Planning permission. The results of the Watching Brief confirmed that no evidence of archaeological activity or settlement were observed during the ground excavations. It was concluded on the evidence before the assessor that there was no archaeological resource within the development area.

## **CONCLUSION**

Section 73A of the Act provides for retrospective Planning permission to be granted in respect of development which has already been carried out without Planning permission or without having complied with one or more of the Planning conditions to which it was subject.

The Local Planning Authority can grant such permission unconditionally or subject to different conditions or they can refuse the application if they decide the retrospective development is unacceptable.

The proposed changes to the AD facility through the variation of Planning conditions 1 and 7 accords with the overarching objectives of national and local Planning policy to decarbonise society and develop a circular economy whilst maximising environmental protection and limiting environmental impact. Based on evidence before the Council the increase in processing capacity should not have any significant environmental impacts or adverse consequences on the living conditions and well-being of residents and subject to the imposition of Planning conditions and S.106 Agreement, the continued operation of the site should not be detrimental to highway safety. Furthermore, the variation to the conditions has not raised any issues with regard to drainage, biodiversity interests or any other material considerations that justify a refusal of Planning permission.

Notwithstanding the objections received from the Community Council and local resident, having regard to the relevant Policies and the advice received from Statutory Consultees, the proposal is acceptable and the recommendation is to approve the application subject to the developer entering into a S106 Agreement and the following Planning conditions.

## **RECOMMENDATION**

(A) The applicant enters into a Deed of Variation/Section 106 Agreement to:-

- (i) include a routeing agreement for heavy goods vehicles operating to and from the AD plant and digestate lagoon
- (ii) require the operator of the AD plant to keep a record of complaints and publish a report of any breaches to the routeing agreement

(B) The Corporate Director Communities be given delegated powers to issue a decision notice granting consent in respect of this proposal once the applicant has entered into the aforementioned Section 106 Agreement, subject to the following conditions:-

1. The development shall be carried out in accordance with the following approved plans and documents:
  - i. A312.1000 P004B received on 21 October 2014
  - ii. JB59184 P001 Rev A
  - iii. A312.1000 C012 Rev 3
  - iv. A312.1000 P005B received on 11 December 2017
  - v. UFQ3716-2001A
  - vi. DWG SD/02 Screen Planting Plan (Revision A) received on 14 May 2018
  - vii. The noise mitigation works as recommended in Section 6.2 of the Acoustic Report by Crestwood Environmental Ltd, Report Reference: 200/STGreen - Final Version dated 5.10.2020. The works shall be implemented within 3 months of the date of

this decision

Reason: To avoid doubt and confusion as to the nature and extent of the approved development.

2. The development shall accord with the following agreed details:
  - i. Materials Schedule - March 2015 received on 17 March 2015
  - ii. Mitigation Measures on page 8 of Ecological Report received by the Local Planning Authority on 21 October 2014
  - iii. Fencing Schedule - March 2015 received on 30 March 2015
  - iv. Geo-technical and Geo-environmental Desk Study Report - November 2014 by Terra Firma
  - v. Foul Drainage Scheme - April 2015 received on 14 April 2015
  - vi. Signage for Parc Stormy - Sign Elevation and Sign Location Plan (Dwg No.1000 C 005 - Revision 9 received on 28 July 2016
  - vii. Lighting Design Drawings 2216-D-01-LED - Rev C and 2216-D-02-LED - Rev C and Supporting Ecology Letter Dated 22 March 2019 (Agreed under P/19/200/DOC on 17th June 2019)

Reason: To avoid doubt and confusion as to the nature and extent of the approved development.

3. The Anaerobic Digester plus any associated works hereby permitted shall be removed from the site on or before 31 March 2045.

Reason: - To enable the Local Planning Authority the matter to be reviewed at the end of the period of the temporary consent and to protect identified reserves of limestone.

4. All water management for the duration of the approved operations on site shall accord with The 'Water Management Plan' received on 21 October 2014.

Reason: To ensure effective drainage of the site

5. Within three months of the date of this consent, a scheme for the provision of highway 'No Left Turn' signage at the site entrance shall be submitted to and agreed in writing by the Local Planning Authority. The agreed signage scheme shall be erected within three months of the scheme being agreed by the Local Planning Authority and shall be retained and maintained in perpetuity.

Reason: In the interests of highway safety.

6. Within three months of the date of this consent, a scheme for the provision of a widened access/egress (supported by vehicle swept path diagrams) and turning taper areas shall be submitted to and agreed in writing by the Local Planning Authority. The agreed access widening scheme shall be implemented within three months of the scheme being agreed by the Local Planning Authority and shall be retained and maintained in perpetuity.

Reason: In the interests of highway safety.

7. No more than 95,000 tonnes of waste annually shall be imported into the site for processing in the Anaerobic Digester operation hereby approved. Written records of tonnages imported into the site and waste vehicle movements shall be available for inspection by the Local Planning Authority, Highway Authority and Public Protection Officers on request at all reasonable times.

Reason: In the interests of highway safety and to ensure the free flow of traffic.

8. No more than 102 waste vehicle movements (51 in and 51 out) shall be permitted on any given day to and from the site. Written records of tonnages imported into the site and waste vehicle movements shall be available for inspection by the Local Planning Authority, Highway Authority and Public Protection Officers on request at all reasonable times.

Reason: In the interests of highway safety and to ensure the free flow of traffic.

9. No vehicle movements associated with the site operations, including any operations involving the importation of waste, removal of waste and finished products and transportation of waste outside the reception building, shall take place outside the following times:  
Monday to Friday 0700 - 1800  
Saturdays and Bank Holidays 0700 - 1600  
Sundays 0800 - 1400

Reason: In the interests of residential amenity

10. Not later than 12 months before the cessation of the Anaerobic Digester Facility, a site restoration scheme including a timetable, shall be submitted to and agreed in writing by the Local Planning Authority. Such a scheme shall include the management and timing of works and a traffic management plan to address highway issues arising during the decommissioning period. Full site restoration shall be carried out in accordance with the agreed scheme and timetable.

Reason: In the interests of highway safety

11. Odour shall be controlled in accordance with the scheme of control measures specified in the Air Quality and Odour Assessment Rev A report submitted to the Local Planning Authority on 21 October 2014.

Reason: In the interests of residential amenity.

12. The biological filtration system hereby approved shall consist of both a biofilter and water scrubber.

Reason: In the interests of residential amenity

13. All operational vehicles arriving at and leaving the site shall be appropriately sealed or covered so as to prevent material spillage and odour nuisance.

Reason: In the interests of residential amenity.

14. Noise generated from all operations on the site expressed as an A-weighted equivalent continuous sound pressure level (LAeqT) shall not exceed the following as measured (or where this is not possible, calculated) at the boundary of the noise sensitive premises specified below:

- i. the noise rating level in any one hour period between 0700 - 2300 shall not exceed an LAeq (1hour) of 36dB at Cae Cornell and Mywydd Farm and 30dB at Mount Pleasant Farm.
- ii. the noise rating level in any 15 minute period between 2300 - 0700 shall not exceed an LAeq(5mins) of 28dB at Cae Cornell and 28dB at Mount Pleasant Farm.

Reason: In the interests of residential amenity.

15. The loading and unloading of vehicles and pre-treatment of waste shall be carried out inside the reception building hereby approved which shall be fitted with fast acting doors.



Reason: In the interest of residential amenity.

16. \* THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS \*

- a. Section 73A of the Act provides for retrospective Planning permission to be granted in respect of development which has already been carried out without Planning permission or without having complied with one or more of the Planning conditions to which it was subject. The Local Planning Authority can grant such permission unconditionally or subject to different conditions or they can refuse the application if they decide the retrospective development is unacceptable.

The proposed changes to the AD facility through the variation of Planning conditions 1 and 7 accords with the overarching objectives of national and local Planning policy to decarbonise society and develop a circular economy whilst maximising environmental protection and limiting environmental impact. Based on evidence before the Council the increase in processing capacity should not have any significant environmental impacts or adverse consequences on the living conditions and well-being of residents and subject to the imposition of Planning conditions and S106 Agreement, the continued operation of the site should not be detrimental to highway safety. Furthermore, the variation to the conditions has not raised any issues with regard to drainage, biodiversity interests or any other material considerations that justify a refusal of Planning permission.

Notwithstanding the objections received from the Community Council and local resident, having regard to the relevant Policies and the advice received from Statutory Consultees, the proposal is acceptable and the recommendation is to approve the application subject to the developer entering into a S106 Agreement and the following Planning conditions.

- b. The S106 Agreement shall specify that all heavy goods vehicle traffic associated with the proposed AD facility shall only access/egress from the site via Heol y Splott and shall only turn left at the A48/Heol y Splott junction to travel towards Pyle. In addition a routeing agreement breach complaints procedure and recording mechanism will be provided by the operator of the AD plant.
- c. The developer is advised to consider the provision of nest boxes within the development for bird species and the incorporation of bat boxes, bat tiles and bat bricks.
- d. Rainwater run off shall not discharge into the highway surface-water drainage system. Failure to ensure this may result in action being taken under the Highways Act 1980.
- e. Foul water and surface water discharges shall be drained separately from the site.
- f. No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system.
- g. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

**JANINE NIGHTINGALE**  
**CORPORATE DIRECTOR COMMUNITIES**

**Background Papers**  
None

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**REFERENCE:** P/21/484/FUL

**APPLICANT:** Irvin GQ Bettws Road, Llangeinor, Bridgend, CF32 8PL

**LOCATION:** Irvin GQ Bettws Road Llangeinor CF32 8PL

**PROPOSAL:** Construction of new enlarged building (to replace recently demolished structure) for product testing

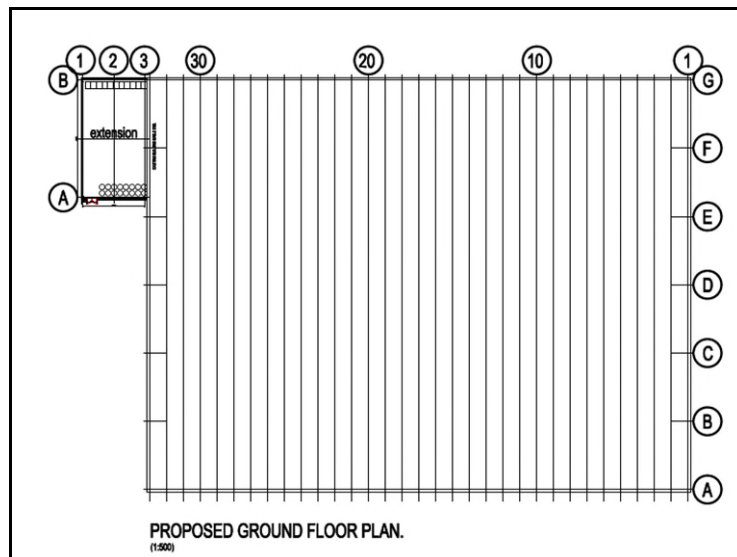
**RECEIVED:** 21 May 2021

**SITE INSPECTED:** 26 August 2021

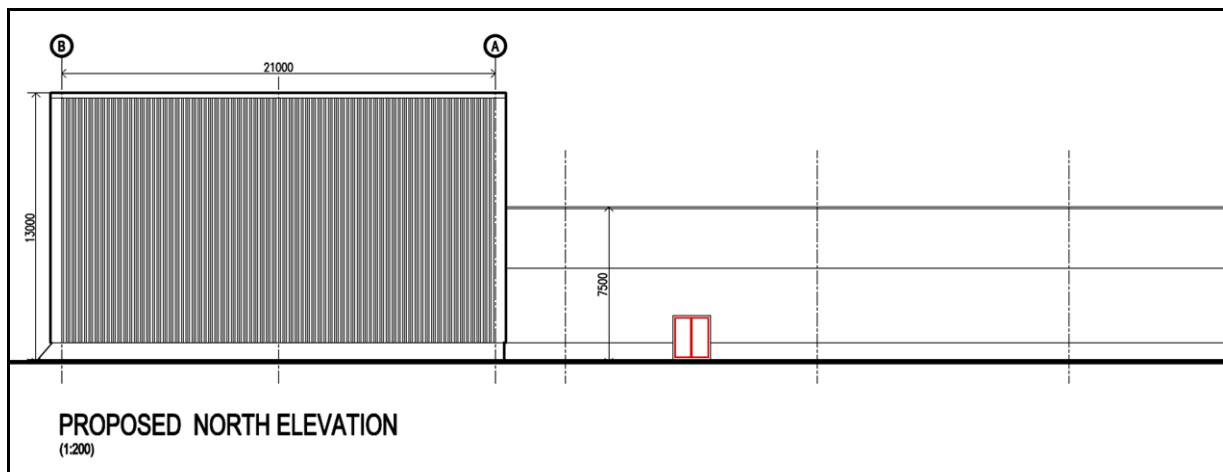
## DESCRIPTION OF PROPOSED DEVELOPMENT

This application seeks full Planning permission for the erection of an extension for product testing at Irvin GQ, Bettws Road, Llangeinor.

The extension will replace a building that has recently been demolished and is proposed to measure 11 metres in width, 21 metres in depth and 13 metres in maximum height. It will be positioned on the northern elevation of the existing building and will comprise a steel frame with metal cladding to match the existing building with a flat roof, as shown below:



*Fig. 1: Proposed Ground Floor*

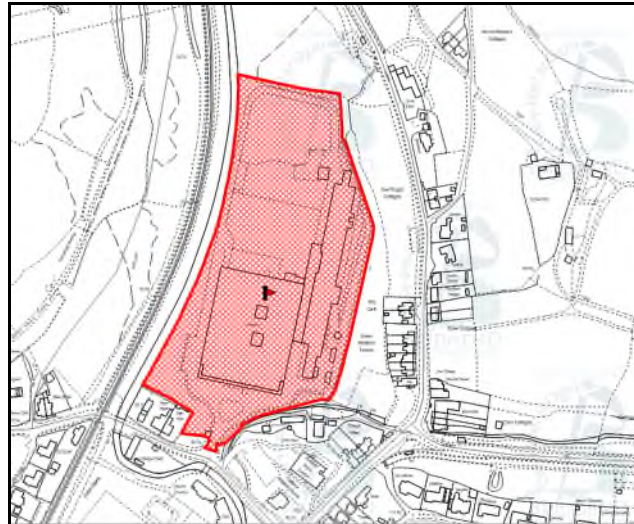


*Fig. 2: Proposed North Elevation*

The extension to the building will accommodate product testing in relation to the existing production at the company's European HQ in Llangeinor. Irvin GQ employs over 350 personnel in South Wales with additional locations in Letchworth, Brize Norton and Toulouse. Their key business is based around naval decoy systems, parachutes, aerial delivery equipment and services operating within the Aerospace and defence market.

### **SITE DESCRIPTION**

The application site lies within the Small Settlement boundary of Llangeinor, as defined by Policy PLA1 of the adopted Local Development Plan (2013), and is identified under Policy REG1(30), known as Green Meadow, Llangeinor, as being an Employment Site.



**Fig. 3: OS Map Extract of Application Site**

The site has housed the existing factory since the 1970s and the current owners, Irvin GQ, have operated from the site since April 2002. There is residential housing to the east and south of the site, a disused railway line to the west and countryside beyond, as shown in the OS Map Extract above.

The existing building has metal clad elevations and a flat roof and is positioned towards the southern boundary of the application site with parking areas to the front, side and rear. The site is flat in nature and sits on the valley floor where land to the east and to the west gradually rises. It is accessed from Bettws Road on the southern site boundary and is bordered to the north, east and west by a buffer of mature trees and vegetation, as shown in the aerial image below:



**Fig. 4: Aerial Image (2020)**

## RELEVANT HISTORY

Application Reference	Description	Decision	Date
P/96/1014/FUL	Erection of detached external compressor house	Unconditional Consent	27/01/1998
P/03/222/FUL	Extension to existing stores and press shop	Withdrawn	26/06/2006
P/11/557/FUL	Extension to increase height of an existing building for product testing	Unconditional Consent	23/09/2011
P/17/304/FUL	Extension of existing building to accommodate product testing	Withdrawn	13/09/2017

## CONSULTATION RESPONSES

### CONSULTEE

### COMMENTS

**Cllr Stirman**  
1 July 2021

No adverse comments received from residents/constituents; no further comment.

**Highways Officer**  
14 September 2021

No objection.

**Land Drainage**  
6 July 2021

No objection subject to the inclusion of the recommended planning condition and informative notes.

**Dwr Cymru/Welsh Water**  
27 July 2021

Recommends the inclusion of an informative note.

**The Coal Authority**  
14 July 2021

No objection.

**Natural Resources Wales**  
20 July 2021

No objection to the proposed development, subject to the developer being made aware of the potential flood risks to these areas.

## REPRESENTATIONS RECEIVED

The application has been advertised through direct neighbour notification. The period allowed to provide a response to consultations expired on 26 July 2021.

Three letters of objection have been received in response to the consultation undertaken, from occupiers of Llyston, 2 The Croft and Tynton House, Llangeinor, raising objection to the scheme on the following grounds:

- The proposed height of the extension is an *eyesore* and will be viewed as a *tower* during winter months when the trees have shed their leaves;
- Concerns are raised in respect of noise emanating from the factory and the increase in noise levels due to the proposed extension;
- Any increase in the number of trees would reduce the levels of light afforded to the property known as 2 The Croft, Llangeinor;
- Property value will decrease as a result of the proposed development;
- The area is described within the Planning Statement as being *urban* which is disputed;
- Inappropriate location for industrial sized buildings and industrial activity.

## COMMENTS ON REPRESENTATIONS RECEIVED

Factors to be taken into account in making Planning decisions must be Planning matters, that is they must be relevant to the proposed development and use of land in the public interest. The matters raised in the objections received which are material to the determination of the Planning application are addressed in the appraisal section of the report.

Other matters, such as the existing levels of noise emanating from the factory, the impact of the development on property value and the description of the area as being *urban* within the Planning Statement are not considered to be material to the determination of the application and will not be addressed further.

## RELEVANT POLICIES

### Local Policies

The Bridgend Local Development Plan 2006-2021 (LDP) was formally adopted by the Council in September 2013 and within which the following Policies and supplementary Planning guidance are relevant:

<b>Policy PLA1</b>	Settlement Hierarchy and Urban Management
<b>Policy SP2</b>	Design and Sustainable Place Making
<b>Policy SP3</b>	Strategic Transport Planning Principles
<b>Policy PLA11</b>	Parking Standards
<b>Policy SP4</b>	Conservation and Enhancement of the Natural Environment
<b>Policy SP6</b>	Minerals
<b>Policy ENV10</b>	Development within Mineral Buffer Zones
<b>Policy SP9</b>	Employment and the Economy
<b>Policy REG1</b>	Employment Sites

**Supplementary Planning Guidance 17**      Parking Standards

### National Policies

In the determination of a Planning application regard should also be given to the requirements of National Planning Policy which are not duplicated in the Local Development Plan. The following Welsh Government Planning Policy is relevant to the determination of this Planning application:

### Future Wales – the National Plan 2040

#### Planning Policy Wales Edition 11

<b>Planning Policy Wales TAN 11</b>	Noise
<b>Planning Policy Wales TAN 12</b>	Design
<b>Planning Policy Wales TAN 15</b>	Development and Flood Risk
<b>Planning Policy Wales TAN 18</b>	Transport
<b>Planning Policy Wales TAN 23</b>	Economic Development

## WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015

The Well-being of Future Generations Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5).

The well-being goals identified in the act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales

- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of well-being goals/objectives as a result of the proposed development.

### **THE SOCIO ECONOMIC DUTY**

The Socio Economic Duty (under Part 1, Section 1 of the Equality Act 2010) which came in to force on 31 March 2021, has the overall aim of delivering better outcomes for those who experience socio-economic disadvantage and whilst this is not a strategic decision, the duty has been considered in the assessment of this application.

### **APPRAISAL**

#### **PRINCIPLE OF DEVELOPMENT**

The Planning system manages the development and use of land in the public interest contributing to improving the economic, social, environmental and cultural well-being of Wales as required by the Well-being of Future Generations (Wales) Act 2015 and as stated in paragraph 1.2 of Planning Policy Wales (Edition 11, February 2021) (PPW11).

The application site lies within the Small Settlement of Llangeinor, as defined by Policy PLA1 of Bridgend County Borough Council's adopted Local Development Plan (2013) and is also identified as an Employment Site, known as Green Meadow, Llangeinor, under Policy REG1 (30) of the Local Development Plan (2013).

The adopted Local Development Plan (2013) seeks to focus development in four strategic regeneration growth areas with the objective of delivering more sustainable patterns of development. In order to meet the varying requirements of business and to provide access to employment and training for all residents of the County Borough, a range and choice of vacant sites on 120 hectares of land are identified and protected for employment (B1, B2 and B8 uses) purposes. This is inclusive of Green Meadow which is allocated and protected for employment development falling within B1, B2 and B8 Use Classes.

The extension of the existing building is considered to comply with the requirements of Policy REG1(30) of the Local Development Plan (2013) and will promote and expand upon the existing operation. Given this, the proposal is considered to be acceptable in principle.

#### **DESIGN/IMPACT ON THE CHARACTER AND APPEARANCE OF THE AREA**

Whilst the area of land is accepted as an area which is capable of redevelopment in principle in accordance with Policies PLA1 and REG1(30) of the Local Development Plan (2013), consideration must be given to the importance of placemaking in decision making.

Placemaking considers the context, function and relationships between a development site and its wider surroundings. It adds social, economic, environmental and cultural value to development proposals resulting in benefits which go beyond a physical development boundary and embed wider resilience into Planning decisions. Therefore, due regard must be given to Policy SP2 of the Local Development Plan (2013) as it incorporates the concept of placemaking.

Policy SP2 stipulates that "all development should contribute to creating high quality,

attractive, sustainable places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment". Design should be of the highest quality possible and should be appropriate in scale, size and prominence.

The development comprises of an extension to the existing building which proposes an increase in floor space of 231 square metres. In comparison to the floor space of the existing factory building, the proposed increase is minor in nature and is considered to be of a scale which is acceptable. The extension is to be finished in materials which match the existing building and will therefore not detract from its character or appearance.

Regard must be given to the height of the proposed extension as this will be the most prominent element of the proposal. The existing building has a height of 7.5 metres in comparison to the extension which will measure 13 metres in height. The letters of objection received refer specifically to the height of the extension, stating that it will be an *eyesore* and will be detrimental to the views into the site from public vantage points. Whilst these concerns are noted, the height of the extension is justified within the Planning Statement as follows:

*The new building is to facilitate the testing of parachutes which are manufactured at the application premises. The Local Planning Authority will recall that planning permission was approved for a similar building with a height of circa 12m in 2011 (planning application P/11/577/FUL). The occupancy of the building will be two employees at a maximum at any one time as the building will be used for an inflation area which will be government classified work.*

Whilst the extension proposed extends beyond the height of the existing building, its prominence is not considered to be so detrimental to the wider area to warrant a refusal on such grounds. The site lies on the valley floor and is bordered to the north, east and west by mature trees and vegetation. Views into the site from public vantage points are minimal and therefore, whilst the extension would be a relatively prominent addition to the existing factory building, it will not be prominent when viewing the site from the north, east or west. It is therefore considered that despite the objections received, the extension is of an appropriate prominence and will not detract from the visual amenities of the surrounding area to warrant a refusal of planning permission on such grounds.

The scheme on balance, is considered to be compliant with criterion (3) of Policy SP2 of the Local Development Plan (2013)

### **NEIGHBOURING/RESIDENTIAL AMENITY**

Turning to the impact of the development on residential amenity, regard is given to criterion (12) of Policy SP2 of the Local Development Plan (2013) which seeks to ensure that the viability and amenity of neighbouring uses and their users/occupiers is not adversely affected by development proposals.

The introduction of the extension in the proposed location will not result in overlooking into residential properties, owing to its position on the northern elevation of the building and the distance between the extension and the closest neighbouring properties, separated by a buffer of large mature trees and vegetation.

In this case, the objections received mostly refer to the noise levels emanating from the existing factory and the increase in noise levels caused by the proposed extension. Criterion (8) of Policy SP2 of the Local Development Plan (2013) refers specifically to noise, stipulating that development should avoid or minimise noise, air, soil and water pollution.



The levels of noise which emanate from the existing factory are not a matter for the determination of this Planning application and will not be addressed further. The Public Protection Section were consulted on the proposal and raise no objections or queries which relate to noise. Therefore the scheme is considered to be acceptable in this regard.

Owing to the above, the proposed development is considered to be compliant with criteria (8) and (12) of Policy SP2 of the Local Development Plan (2013) and is considered to be acceptable from an amenity perspective.

### **HIGHWAY SAFETY AND PARKING PROVISION**

Policy PLA11 of the Local Development Plan (2013) states that “all development will be required to provide appropriate levels of parking. This should be in accordance with the adopted parking standards”.

The proposed extension of 11 metres by 22 metres would require the provision of two additional parking spaces, to meet the requirements of Supplementary Planning Guidance Note 17 Parking Standards (SPG17) however, it is noted that the existing factory footprint of approximately 11,177 square metres would require a maximum quantum of 93 car parking spaces (based on 1 space per 120 square metres). It appears from reviewing aerial imagery of the site that there are 191 spaces provided and therefore, the existing provision exceeds the maximum car parking requirements stipulated by SPG17. As such, the applicant is not required to provide 2 additional car parking spaces in this instance.

In addition, it is noted that the extension proposed is for the testing of products and will not increase the production area. Therefore, the requirement within SPG17 to provide an increased operational area for deliveries etc. is not required.

Given the above, the Highway Officer considers that the proposed development is acceptable and no objection is raised in respect of highway safety. The development is considered to be compliant with Policy PLA11 of the Local Development Plan (2013).

### **DRAINAGE**

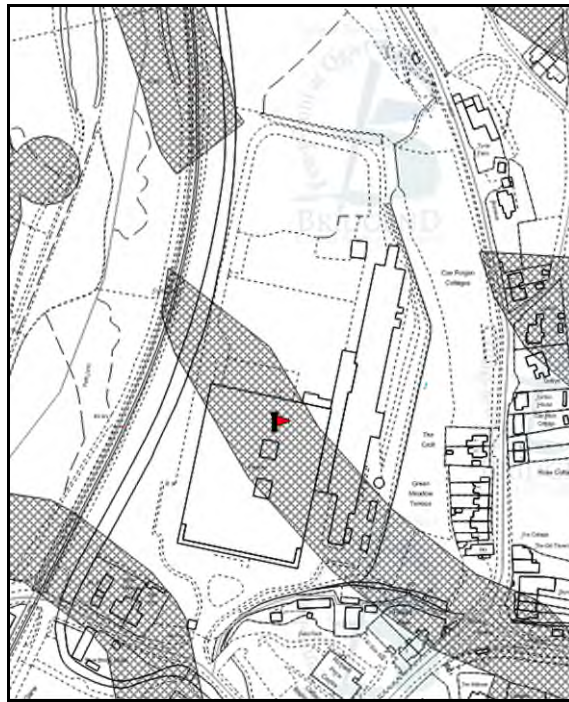
Criterion (13) of Policy SP2 of the Local Development Plan (2013) states that developments should incorporate “appropriate arrangements for the disposal of foul sewage, waste and water”.

In this case, whilst the developable area does not lie within a Flood Zone, parts of the main site are bordered by both main river and ordinary watercourse and are identified as being within Zone B and Zone C2, as defined by the Development Advice Map, referred to under Technical Advice Note (TAN) 15 Development and Flood Risk. Given this, the applicant is advised to give consideration to the incorporation of flood resistance/resilience measures into the development which could include flood barriers on ground floor doors, windows and access points, implementation of suitable floor proofing measures to the internal fabric of the ground floor and locating electrical sockets/components at a higher level above possible floor levels.

No objection is raised by Natural Resources Wales, Dwr Cymru Welsh Water or the Land Drainage Section and therefore, the proposal is considered to be acceptable from a drainage perspective, in accord with criterion (13) of Policy SP2 of the Local Development Plan (2013).

### **MINING**

The application site lies partially within the Development High Risk Area defined by The Coal Authority, as shown edged diagonally below:



**Fig. 5 - Development High Risk Area**

The Coal Authority records indicate that the application site lies within an area where coal seams outcrop at or close to the surface may have been worked in the past, however, it is noted that the area of the application site which is proposed to accommodate the extension lies outside of the defined High Risk Area and, therefore, The Coal Authority does not consider that a Coal Mining Risk Assessment (CMRA) is necessary to support the Planning application and raises no objection to the proposal.

Subject to the inclusion of an informative note, the development is considered to be acceptable in this regard.

## **CONCLUSION**

Having regard to the above and notwithstanding the objections raised, on balance, it is considered that the extension to the existing factory building is acceptable.

The extension is of a scale which is appropriate given the existing floor space of the factory and whilst of a height which is greater than the existing building, is not considered to detract from the visual amenities of the area to the extent that would warrant a refusal of Planning permission on such grounds. The height of the extension is justified in that it is required in order to test the products made at the factory.

Given the position of the extension on the northern elevation of the existing building and given that the northern, eastern and western boundaries of the site are bordered with mature trees and vegetation, no concern is raised in respect of the impact of the development on the character or appearance of the area.

Turning to the impact on neighbour amenity, the extension will not result in any overlooking of nearby residential properties given their proximity, position of the extension and existing vegetation which borders the site and no objection has been raised by Public Protection which relates to noise.

The scheme is considered to be acceptable from a highway safety perspective, and on balance, taking into account the economic benefits this facility has a key employer in Bridgend, it is considered to be an acceptable form of development in this established

location. The application is therefore recommended for approval.

## **RECOMMENDATION**

(R02) That permission be GRANTED subject to the following condition(s):-

1. The development shall be carried out in accordance with the following drawings:
  - Location/Block Plan 21.13 01 received on 21 May 2021;
  - Proposed Location/Block Plan 21.12 02 received on 21 May 2021;
  - Proposed Ground Floor Plan 21.13 05 received on 21 May 2021;
  - Proposed Ground Floor Extension Plan 21.13 06 received on 21 May 2021;
  - Proposed Elevations (Sheet 01 of 02) 21.13 09 received on 21 May 2021;
  - Proposed Elevations (Sheet 02 of 02) 21.13 10 received on 21 May 2021.

Reason: To avoid doubt and confusion as to the nature and extent of the approved development.

2. The materials to be used in the construction of the external surfaces of the extension hereby approved shall match those used in the existing factory building.

Reason: To secure the maximum degree of unity between existing and proposed development.

3. No development shall commence on site until a scheme for the comprehensive and integrated drainage of the site, showing how foul, road and roof/yard water will be dealt with, including future maintenance requirements, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme must be implemented prior to beneficial use.

Reason: to ensure that effective drainage facilities are provided for the proposed development and that flood risk is not increased.

4. \* THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS \*
  - a. Having regard to the above and notwithstanding the objections raised, on balance it is considered that the extension to the existing factory building is acceptable.

The extension is of a scale which is appropriate given the existing floor space of the factory and whilst of a height which is greater than the existing building, is not considered to detract from the visual amenities of the area to the extent that would warrant a refusal of Planning permission on such grounds. The height of the extension is justified in that it is required in order to test the products made at the factory.

Given the position of the extension on the northern elevation of the existing building and given that the northern, eastern and western boundaries of the site are bordered with mature trees and vegetation, no concern is raised in respect of the impact of the development on the character or appearance of the area.

Turning to the impact on neighbour amenity, the extension will not result in the overlooking of nearby residential properties given their proximity, position of the extension and existing vegetation which borders the site and no objection has been raised by Public Protection which relates to noise.

The scheme is considered to be acceptable from a highway safety perspective, and on balance, is considered to be an acceptable form of development in this

location. The application is therefore recommended for approval.

- b. No surface water is permitted to discharge to the public highway.
- c. No land drainage run-off will be permitted to discharge (either directly or indirectly) into the public sewerage system.
- d. From 7 January 2019, new developments of 2 or more properties or development over 100m<sup>2</sup> of construction area require sustainable drainage to manage on-site surface water. The surface water drainage systems must be designed and built in accordance with standards for sustainable drainage. These systems must be approved by the SuDS Approving Body (SAB) before construction work begins. The applicant shall submit a sustainable drainage application form to the Bridgend County Borough Council SAB. Further information in relation to the new legislation including the sustainable drainage application forms can be obtained from the following link:  
<https://www.bridgend.gov.uk/residents/recycling-waste-and-environment/environment/flooding/sustainable-drainage-systems/>
- e. Due to the proximity of the site to the Garw River, all works at the site must be carried out in accordance with GPP5 and PPG6: 'Works and maintenance in or near water' and 'Working at construction and demolition sites' which are available on the following website: <https://www.netregs.org.uk/environmental-topics/guidance-for-pollution-prevention-gpp-documents/guidance-for-pollution-prevention-gpps-full-list/>
- f. The applicant should be advised that if the development will give rise to a new discharge (or alter an existing discharge) of trade effluent, directly or indirectly to the public sewerage system, a Discharge Consent under Section 118 of the Water Industry Act 1991 is required from Dwr Cymru Welsh Water. Please note that the issuing of a Discharge Consent is independent of the Planning process and a consent may be refused although Planning permission is granted.
- g. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at:  
<https://www.gov.uk/government/organisations/the-coal-authority>

**JANINE NIGHTINGALE**  
**CORPORATE DIRECTOR COMMUNITIES**

**Background Papers**

None

**REFERENCE:** P/21/541/FUL

**APPLICANT:** Michelle Jones  
c/o Plan R Ltd, 39 Merthyr Mawr Road, Bridgend CF31 3NN

**LOCATION:** Sweet Lil Treats, Heol Llangeinor, Llangeinor CF32 8PW

**PROPOSAL:** Change of use to fish and chip shop (A3 Use Class) from existing retail shop (A1 Use Class)

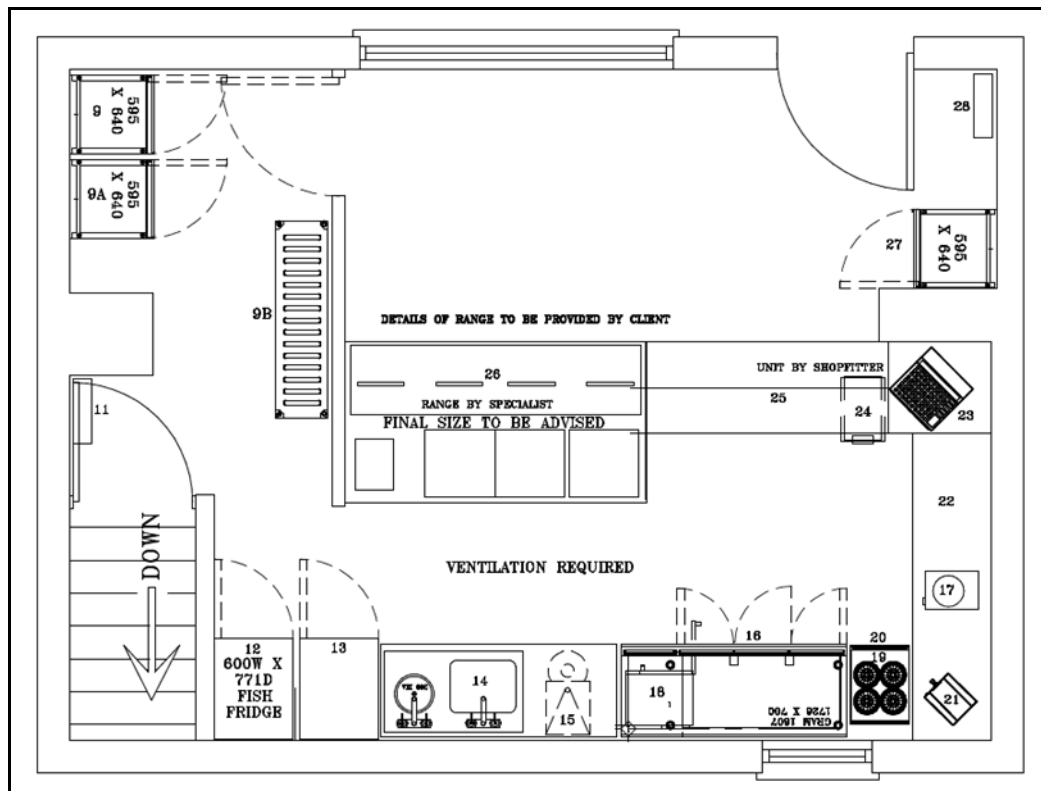
**RECEIVED:** 8 June 2021

**SITE INSPECTED:** 9 July 2021

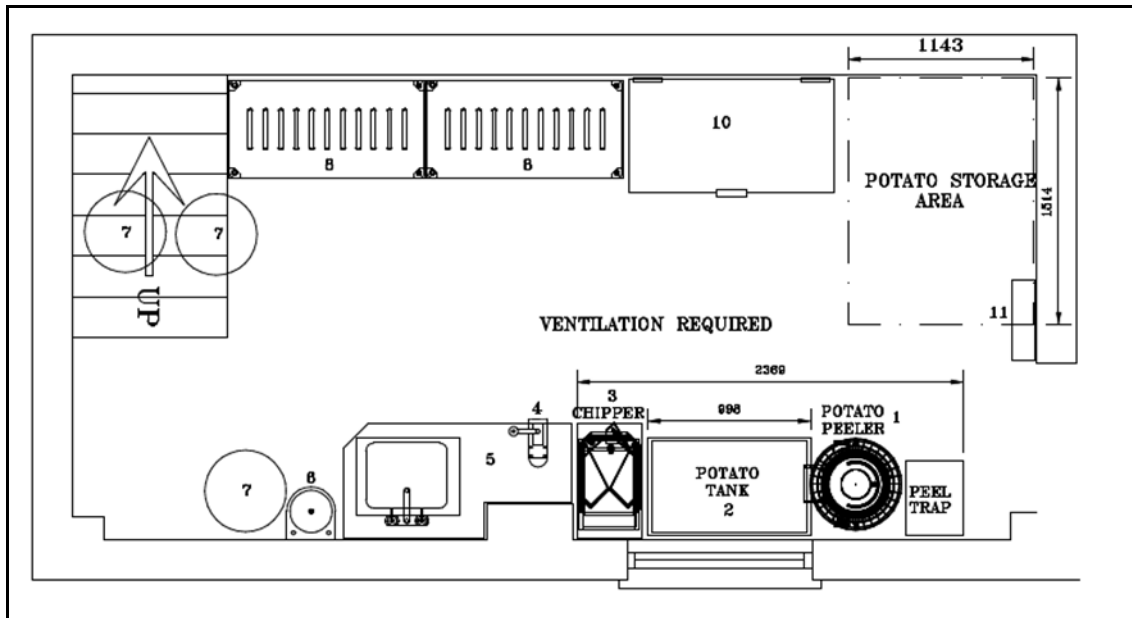
## DESCRIPTION OF PROPOSED DEVELOPMENT

Full Planning permission is sought retrospectively for the change of use of Sweet Lil Treats, Heol Llangeinor, Llangeinor from Class A1 (Shops) to Class A3 (Food and Drink), as defined by The Town and Country Planning (Use Classes) Order 1987.

The proposal comprises the change of use to a fish and chip shop which is proposed to operate between the hours of 12:00pm and 9:00pm Monday to Saturday and 4:00pm and 9:00pm on Sundays and Bank Holidays. The fish and chip shop will employ four members of staff, three full-time and two part-time, and is proposed to have an internal arrangement as follows:



**Fig. 1: Proposed Ground Floor**



**Fig. 2: Proposed Lower Ground Floor**

The application is a resubmission of Planning application reference P/20/958/FUL which was refused on 11 March 2021 for the following reasons:

*The proposed hot food take-away at this location would give rise to a greater intensity of short term on-street parking along the Classified Route A4064 Heol Llangeinor in close proximity to a Pedestrian Crossing and bus stops which will affect the safety and free flow of traffic to the detriment of highway safety, contrary to the provisions of Policies SP3 and PLA11 of the Local Development Plan (2013) and guidance contained within Planning Policy Wales (Edition 11, February 2021).*

*The proposed hot food take-away at this location would give rise to a greater intensity of 'U turn' manoeuvres in the adjacent junction of the Classified Route A4064 with Heol Llwynffynon to the detriment of highway safety and contrary to the provisions of Policy SP3 of the Local Development Plan (2013) and guidance contained within Planning Policy Wales (Edition 11, February 2021).*

At the time of writing, it is understood that the site is currently operating as an A3 Use Class, albeit at a reduced capacity and reduced operating hours than those proposed.

No external alterations are proposed as part of this application.

### **SITE DESCRIPTION**

The application site is located within the countryside, as defined by Policy PLA1 of Bridgend County Borough Council's adopted Local Development Plan (2013), and is positioned on the western boundary of the Small Settlement of Llangeinor, as shown edged in purple below:



**Fig. 3: OS Map of Application Site and Settlement Boundary of Llangeinor**

The site comprises a detached split-level flat roof building which principally faces the east. It lies on the western side of Heol Llangeinor (A4064) which runs adjacent to the eastern boundary of the application site.

The site lies to the west of an established residential area where properties are predominantly two storey semi-detached dwellings which are centrally located within residential plots and benefit from front and rear garden areas. Generally, the topography of the wider area slopes upwards from west to east.

### RELEVANT HISTORY

Application Reference	Description	Decision	Date
87/0972	Shop extension	Consent	15/10/1987
88/1051	Change of use from shop to café	Refused	15/09/1988
88/1515	Change of use from shop to café and/or takeaway	Refused	12/01/1989
89/1358	Change of use from retail A1 to café/takeaway	Conditional Consent	09/11/1989
89/A016	Internally illuminated projecting sign	Conditional Consent	04/05/1989
P/02/985/FUL	Change of use from convenience store to limited hours fish and chip fast food takeaway	Refused (Dismissed on Appeal)	20/11/2002
P/13/359/FUL	Change of use from convenience store (A1) to Hot Food Shop (A3)	Refused	21/06/2013
P/20/958/FUL	Change of use from shop selling cakes to chip shop	Refused	11/03/2021

## **CONSULTATION RESPONSES**

### **CONSULTEE**

### **COMMENTS**

**Highways Officer**  
16 July 2021

Objects to the development.

**Land Drainage**  
2 July 2021

As there is no increase in hardstanding areas, no further surface water consideration is required.

**Dwr Cymru/Welsh Water**  
5 July 2021

No objection.

**Shared Regulatory Services Public Protection**  
14 July 2021

Recommends the inclusion of a planning condition which required the submission of details of the extraction system to be installed to control the emission of cooking smells from the premises.

## **REPRESENTATIONS RECEIVED**

The application has been advertised through the erection of a site notice and direct neighbour notification. The period allowed for response to consultations/publicity expired on 19 July 2021.

A total of three objections have been received from local residents in response to the consultation undertaken, generally objecting to the proposed development on the following grounds:

- Concerns about the impact of the change of use on highway safety and demand for on-street parking when customers visit the fish and chip shop.
- The change of use would increase the volume of traffic and encourage the entrance into Heol Llwynffynon to be used as a turning point.
- The position of bus stops and zebra crossing causes issues with being able to park on-street and will result in customers illegally parking.
- There have been no changes to the area since the previous applications were refused.
- The fish and chip shop will result in more littering within the vicinity of the site.
- The smell from the fish and chip shop is a concern.
- Obesity levels and proximity of the fish and chip shop to a school.

## **COMMENTS ON REPRESENTATIONS RECEIVED**

Factors to be taken into account in making Planning decisions must be Planning matters, that is they must be relevant to the proposed development and use of land in the public interest.

The matters raised in the representations received which are considered to be material to the determination of this application, namely the impact of the development on highway safety and odours associated with the use, are considered in the appraisal section of this report.

## **RELEVANT POLICIES**

### **Local Policies**

The Bridgend Local Development Plan 2006-2021 (LDP) was formally adopted by the Council in September 2013 and within which the following Policies and Supplementary Planning Guidance are relevant:



<b>Policy PLA1</b>	Settlement Hierarchy and Urban Management
<b>Policy SP2</b>	Design and Sustainable Place Making
<b>Policy SP3</b>	Strategic Transport Planning Principles
<b>Policy PLA11</b>	Parking Standards
<b>Policy SP4</b>	Conservation and Enhancement of the Natural Environment
<b>Policy ENV1</b>	Development in the Countryside

**Supplementary Planning Guidance 17**      Parking Standards

### **National Policies**

In the determination of a Planning application regard should also be given to the requirements of National Planning Policy which are not duplicated in the Local Development Plan. The following Welsh Government Planning Policy is relevant to the determination of this planning application:

### **Future Wales – the National Plan 2040**

#### **Planning Policy Wales Edition 11**

#### **Planning Policy Wales TAN 4**

Retail and Commercial Hierarchy

#### **Planning Policy Wales TAN 12**

Design

### **WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015**

The Well-being of Future Generations Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5).

The well-being goals identified in the act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of well-being goals/objectives as a result of the proposed development.

### **THE SOCIO ECONOMIC DUTY**

The Socio Economic Duty (under Part 1, Section 1 of the Equality Act 2010) which came in to force on 31 March 2021, has the overall aim of delivering better outcomes for those who experience socio-economic disadvantage and whilst this is not a strategic decision, the duty has been considered in the assessment of this application.

### **APPRAISAL**

This application is referred to the Development Control Committee to consider the objections received from nearby residents and at the request of Cllr S Dendy who is supportive of the scheme.

## **PRINCIPLE OF DEVELOPMENT**

The site is located within the countryside, demarcated by Policy PLA1 of Local Development Plan (2013), which defines the countryside as land outside of the designated settlement boundaries. It states at paragraph 4.1.9 of Local Development Plan (2013) that the countryside should be protected for its own sake (i.e. for its beauty, landscape quality, natural resources, and its agricultural, ecological, geological, physiographic, historical, archaeological and recreational value". Therefore, development in the countryside will be strictly controlled and the Policy will not be set aside lightly in the interests of maintaining the integrity of the countryside.

Planning Policy Wales Technical Advice Note 6 (July 2010), entitled Planning for Sustainable Rural Communities, advises that Local Planning Authorities must "protect and enhance the natural and historic environment and safeguard the countryside and open spaces".

Policy ENV1 of the Local Development Plan (2013) states that development in the countryside should benefit the rural economy whilst maintaining or enhancing the environment. It stipulates that all development will be strictly controlled but may be acceptable where it can meet one of the following criteria:

- 1) Agriculture and/or forestry purposes;
- 2) The winning and working of minerals;
- 3) Appropriate rural enterprises where a countryside location is necessary for the development;
- 4) The implementation of an appropriate rural enterprise/farm diversification project;
- 5) Land reclamation purposes;
- 6) Transportation and/or utilities infrastructure;
- 7) The suitable conversion of, and limited extension to, existing structurally sound buildings where the development is modest in scale and clearly subordinate to the original structure;
- 8) The direct replacement of an existing dwelling;
- 9) Outdoor recreational and sporting activities; or
- 10) The provision of Gypsy Traveller accommodation.

Whilst the change of use of the existing shop to a fish and chip shop does not strictly require a countryside location, it is considered to be compliant with criterion (7) of Policy ENV1 of the Local Development Plan (2013). The fish and chip shop will occupy an existing building which is capable of being commercially operational under an A1 Use Class (Shops). As such, the proposal cannot be described as being detrimental to the countryside location as it will accommodate an existing building which is technically capable of being commercially occupied under an A1 Use Class.

Given the nature of the proposal, its limited scale and owing to the fact that the fallback position in that the existing building can be commercially operational, the proposal is unlikely to have an adverse impact upon this countryside location. In addition, when taking into consideration the close proximity of the site to the settlement boundary of Llangeinor, the change of use is considered to be compliant with Policy ENV1 of the Local Development Plan (2013) in this regard.

## **HIGHWAY SAFETY**

As no external alterations are proposed, the main consideration in the determination of this application is its impact on highway safety. Policy SP3 of the Local Development Plan (2013) refers to Strategic Transport Planning Principles and is intended to encourage and establish an integrated, safe and equitable transport system. It states

that “all development should promote safe, sustainable and healthy forms of transport through good design, enhanced walking and cycling provision, and improved public transport provision”. Development proposals should “improve road safety” and provide “appropriate standards of car parking”.

Planning permission for the change of use of the convenience store to a limited hours fish and chips/fast food takeaway was refused under Planning application reference P/02/985/FUL by Bridgend County Borough Council on 20 November 2002 for the following reason:

*The hot food take-away at this location would give rise to a greater intensity of short term on-street parking along the adjoining highway and affect the safety and free flow of traffic to the detriment of highway safety.*

The refusal of Planning permission was appealed by the applicant and was subsequently dismissed on 8 July 2003 by the Planning Inspectorate under appeal reference APP/F6915/A/03/1114748.

As noted by the Planning Inspector when considering the appeal, the site is located in a position whereby *the road is straight and subject to a 30 mph speed limit in the immediate vicinity. Generally visibility is good, the road is two lanes wide with footways on both sides. However, there is an acute junction immediately opposite the site which leads steeply uphill into a residential area. There are double yellow lines, a bus stop and pedestrian crossing on the main road on either side of the site. This effectively means that vehicles may not legally stop or park on the highway for about 45 metres to the north of the site and about 60 metres to the south. Parking is only restricted on the access road opposite for about the first 9 metres, however the narrow width of that carriageway means that vehicles can only park on one side and when doing so they reduce the useable width to a single vehicle only.*

The appellant at that time argued that the road has good visibility and whilst the double yellow lines would not allow vehicles to park outside the shop, local residents park within the vicinity of the site and an additional one/two vehicles parked for customers of the fish and chip/fast food takeaway would not be detrimental to highway safety. It was also argued by the appellant that the shop was intended to serve local people which would mean that the vast majority of customers would walk to the premises.

The Inspector disagreed, stating that when visiting the site at around 5:00pm *there were a significant number of cars parked on the main road and the road opposite even though many residents would not be home from work at that time, and that there was no reason to doubt the views expressed by some local residents that the space available for legal parking is generally fully used in the evenings.*

It was observed that the *main road carries a significant amount of traffic and that from the Inspector’s experience, a significant number of customers to any fish and chip shop are likely to use their car, either passing on the way home or in order to make a purchase and return home as quickly as possible whilst the food is hot.*

The Inspector concluded that *the proposal would be unacceptably harmful to the safety and free flow of traffic* and dismissed the appeal.

Subsequently in 2013, Planning permission was sought for the ‘change of use from convenience store (A1) to hot food shop (A3)’ under Planning application reference

P/13/359/FUL. The application was refused on 21 June 2013 on highway safety grounds as follows:

*The proposed hot food take-away at this location would give rise to a greater intensity of short term on-street parking along the classified route A4064, Heol Llangeinor, in close proximity to a pedestrian crossing and bus stops and affect the safety and free flow of traffic to the detriment of highway safety contrary to Policies EV6, T2 and Supplementary Planning Guidance 14 Hot Food Take-Away Establishments.*

*The proposed hot food take-away at this location would give rise to a greater intensity of "U" turn manoeuvres in the adjacent junction of the classified route A4064 with Heol Llwynffynon, Llangeinor, to the detriment of highway safety contrary to Policies EV6, T2 and Supplementary Planning Guidance 14 Hot Food Take-Away Establishments.*

The refused application did not result in an appeal to the Planning Inspectorate.

Again, in December 2020, Planning permission was sought for the 'change of use from a shop which sells cakes to a chip shop' under Planning application reference P/20/958/FUL. When assessing the application, the Highway Authority considered that there was no change of circumstance since the previous Planning applications were refused and the appeal dismissed and raised an objection to the development. The application was refused on 11 March 2021 but again no appeal was lodged with the Planning Inspectorate.

To provide an accurate site context in terms of the highway network, the site is located on the western side of Heol Llangeinor that is a single carriageway road with significant traffic restrictions. The site is located to the west of an established residential area which mainly consists of two storey semi-detached dwellings which do not provide off-street parking facilities. The immediate area within the vicinity of the application site, owing to the highway restrictions in the form of double yellow lines, a bus stop and a zebra crossing as well as the predominant house type, suffers from over-subscription of on-street parking. This is supported by the representations received from local residents.

Given the location of the application site and its context in terms of the highway network, the Council still considers that the change of use would generate additional on-street parking to the detriment of highway safety. The change of use will also increase instances of illegal parking such as parking on double yellow lines or parking on a bus stop, particularly during periods of inclement weather. The application site does not provide space or an access point to provide any off-street parking provision and the Council therefore considers the development to be detrimental to highway safety.

The safety issue is evidenced in the photographs below, taken at around 4:00pm on 19 February 2021. The photographs show several cars parked on the highway to the east of the application site:



**Fig. 4: Cars parked on-street close to the junction between Heol Llangeinor and Heol Llwynffynon**



**Fig. 5: Cars parked on-street on Heol Llwynffynon**

It is considered that the proposed development will increase the need for legal on-street parking spaces where it is evidenced that this is already at a premium and it is considered that this will result in the occurrence of illegal on-street parking closer to, and in front of, the application site opposite the junction between Heol Llangeinor and Heol Llwynffynon, to the detriment of highway safety. As stated by the Planning Inspector, *the general consequence of even a modest number of customers using their cars is that there would inevitably be conflict with the free flow of through traffic and danger to other road users. Such danger would be increased for pedestrians using the crossing, bus stop or being tempted to cross directly from the housing area.*

In support of this application, the applicant has submitted a Planning Statement, written by Plan R Ltd, which seeks to provide further justification for the change of use of the premises to an A3 Use Class. The applicant has also included around 24 letters of support from residents of the County Borough.

The Planning Statement claims the following:

*The applicant also feels that previous applications and an appeal have overly focused on the use of the premises by car whereas there are (based on 2011 census figures) over 1200 residents who for the most part live within a 5-10 minute walk of the premises and therefore the proposed use is not car dependent.*

Evidence has also been provided about customer use of a nearby Premier Shop (A1 Use Class) which shows that around 60 of the 138 customers who visited the shop during the dates and times the survey took place came by car.

Concerns were raised by the Highway Authority that the survey provided in support of the application was not comparable to the application being considered given that the nearby Premier Shop operates within an A1 Use Class not an A3 Use Class as proposed. The applicant subsequently submitted a further survey of the fish and chip shop, undertaken between Thursday July 22 2021 and Sunday July 25 2021, which is reproduced below:

Proposed A3 Use Heol Llangeinor					
Survey of Customers July 22 – July 25 2021					
	July 22 (Thurs)	July 23 (Fri)	July 24 (Sat)	July 25 (Sun)	Totals
Customer Nos in total	35	34	57	39	165
Direction of Travel (originating location)	23 from north/north east and from main housing areas. 12 form east and south/east.	19 from north/north east and from main housing areas. 15 form east and south/east.	35 from north/north east and from main housing areas. 22 form east and south/east.	26 from north/north east and from main housing areas. 13 form east and south/east.	103 from north/north east and from main housing areas. 62 form east and south/east.
Mode of Transport (walking, cycling, public transport, car)	Walking - 32 Bus Car - 3	Walking -32 Bus Car -2	Walking -50 Bus - 2 Car - 5	Walking - 36 Bus Car - 3	Walking - 150 Bus - 2 Car - 13
If by car where parked?	on Heol Llangeinor to north of shop in area with no Traffic Restrictions	on Heol Llangeinor to north of shop in area with no Traffic Restrictions	on Heol Llangeinor to north of shop in area with no Traffic Restrictions	on Heol Llangeinor to north of shop in area with no Traffic Restrictions	All on Heol Llangeinor in designated area with no TROs
If by car any use of Heol Llwynffynon for U turn.	no	no	no	no	None.

**Fig. 6: Copy of Additional Survey**

At the time of making this application and upon receipt of the survey, an attempt was made by the Highway Authority to undertake a survey of customers accessing the premises to corroborate the applicant’s survey and witness any highway impacts.

Unfortunately, at that time, it was apparent that the operating hours of the takeaway, and the food choice available was limited at best and a very limited number of customers were found to visit the shop. Accordingly, it is considered that the survey provided is not representative of a fully operational A3 use and therefore, the concerns previously raised by the Highway Authority are not fully realised as they would be with a fully operational A3 use operating between the proposed hours of operation.

The argument put forward by the applicant was also previously used as part of the appeal made against Planning application reference P/02/985/FUL (appeal reference APP/F6915/A/03/1114748) and the appeal was dismissed by the Inspector who stated that, despite living within close proximity, *a significant number of customers to any fish and chip shop are likely to use their car, either passing on the way home or in order to make a purchase and return home as quickly as possible whilst the food is hot.* Given this, it is considered that the retention of the A3 Use Class at the premises would exacerbate the concerns raised by the Highway Authority, as it is likely that more customers would be reliant upon the use of the car, due to the type of food which is for sale. Customers would in effect, be constrained by time in order to eat the food when it is still hot, and would therefore be more likely to use a car as a mode of transport in order to return home more promptly than walking.

Whilst it is acknowledged that the applicant has attempted to overcome the previous reasons for refusal through the submission of letters of support and additional surveys, it is considered that the evidence provided does not address the reasons for refusal, particularly given that the Inspector has previously dismissed the argument put forward that the majority of customers who visit the site are from nearby residential properties and would walk to the premises.

Given the above, on balance, taking into account the additional information provided as part of this application, the proposal is still considered to give rise to a greater intensity of short term on-street parking which will detrimentally affect the safety and free flow of traffic along the A4064 (Heol Llangeinor).

## **CONCLUSION**

Having regard to the above, the change of use is considered to result in an increase in short term on-street parking which will detrimentally affect the safety and free flow of traffic and the change of use would give rise to a greater intensity of 'U-turn' manoeuvres in the junction between Heol Llangeinor and Heol Llwynffynon to the detriment of highway safety. Whilst the additional information submitted in support of the latest application is acknowledged, it is not considered to be sufficient to overcome the previous reasons for refusal and therefore the application is recommended for refusal for the following reasons:

## **RECOMMENDATION**

(R30) That permission be REFUSED for the following reason(s):-

1. The proposed hot food take-away establishment, by reason of its form, location and lack of on-site customer parking provision, would give rise to a greater intensity of short term on-street parking along the Classified Route A4064 Heol Llangeinor in close proximity to a Pedestrian Crossing and bus stops and would affect the safety and free flow of traffic to the detriment of highway safety, contrary to the provisions of Policies SP3 and PLA11 of the Local Development Plan (2013) and guidance contained within Planning Policy Wales (Edition 11, February 2021).
2. The proposed hot food take-away establishment, by reason of its form and location, would give rise to a greater intensity of 'U turn' manoeuvres in the adjacent junction between the Classified Route A4064 and Heol Llwynffynon to the detriment of highway safety and contrary to the provisions of Policy SP3 of the Local Development Plan (2013) and guidance contained within Planning Policy Wales (Edition 11, February 2021).

**JANINE NIGHTINGALE  
CORPORATE DIRECTOR COMMUNITIES**

**Background Papers**  
None



## APPEALS

The following appeals have been received since my last report to Committee:

<b>CODE NO.</b>	A/20/3253547 (1895)
<b>APPLICATION NO.</b>	P/19/114/FUL
<b>APPELLANT</b>	MR NATHAN & MRS SOPHIE PRICE
<b>SUBJECT OF APPEAL</b>	ONE STATIC RESIDENTIAL GYPSY CARAVAN TOGETHER WITH THE ERECTION OF A DAY/UTILITY ROOM, ONE TOURING CARAVAN, REPLACEMENT STABLE BLOCK, CAR PARKING AREA AND INSTALLATION OF A SEPTIC TANK LAND AT THE BARN, SMALLHOLDINGS LANE, COITY
<b>PROCEDURE</b>	HEARING
<b>DECISION LEVEL</b>	DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposal, by virtue of its siting, layout design and scale, represents an inappropriate and unjustified form of development in this countryside location that would detract from the rural character and appearance of the area contrary to Policy COM6-Gypsy and Travellers Sites and Policy SP2 – Design and Sustainable Place Making of the Bridgend County Borough Council Local Development Plan 2006-2021; and advice contained in Planning Policy Wales Ed.10 (December, 2018), TAN12-Design and Welsh Government Circular 30/2007 Planning for Gypsy and Traveller Caravan Sites (December 2007).
  2. The proposed development is situated in a remote, unsustainable location that is not accessible by a range of different transport modes and will rely on the use of private motor vehicles. The proposal is therefore contrary to policy SP2(6) of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 10, 2018).
  3. The proposed development, by reason of its form and location, would generate pedestrian movements along the access lane to Smallholdings, Hendre Road & Heol Byeastwood towards Pencoed and Coity where there is no pedestrian footway or refuge resulting in an increased risk of pedestrian / vehicular conflict to the detriment of highway safety. The proposal is therefore contrary to Policies SP2 and SP3 of the Bridgend Local Development Plan (2013), advice contained within Planning Policy Wales, Edition 10, 2018 and Circular 005/2018.
  4. The proposed development by reason of its form and location off a narrow and substandard access road leading to the site, represents an unsuitable scheme that could not be accommodated without having a detrimental impact on highway safety in and around the site contrary to Policy SP3 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 10, 2018) and Technical Advice Note 18 (2007).
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**CODE NO.** A/21/3277328 (1925)  
**APPLICATION NO.** P/21/285/FUL

**APPELLANT** MR G BAYLISS

**SUBJECT OF APPEAL** DEMOLISH EXISTING GROUND FLOOR BATHROOM/WC AND STORE; CONSTRUCT TWO STOREY SIDE/REAR EXTENSION; SINGLE STOREY REAR EXTENSION WITH BALCONY ABOVE; SINGLE STOREY SIDE EXTENSION; DETACHED GARAGE GLANDYRUS, CAEHELIG, BRYNCETHIN

**PROCEDURE** HOUSEHOLDER

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposed extensions, by reason of their size and scale, represent an excessive, incongruous and overly prominent form of development within a countryside location that will have a detrimental impact on the character and appearance of the host dwelling, contrary to Policies SP2 and ENV1 of the Local Development Plan (2013), Supplementary Planning Guidance Note 02 Householder Development and advice contained within Planning Policy Wales (Edition 11, February 2021).
2. The proposed materials and finishes are considered to be inappropriate and out of keeping with the character and appearance of the host dwelling, and their introduction would result in the loss of the original character of the cottage, contrary to Policy SP2 of the Local Development Plan (2013), guidance contained within Note 11 of Supplementary Planning Guidance Note 02 Householder Development and advice contained within Planning Policy Wales (Edition 11, February 2021).

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**CODE NO.** A/21/3280373 (1926)  
**APPLICATION NO.** P/20/898/RLX

**APPELLANT** ALDI STORES LIMITED

**SUBJECT OF APPEAL** VARIATION OF CONDITION 1 OF PLANNING PERMISSION REF. P/14/65/RLX TO ALLOW DELIVERIES TO THE STORE BETWEEN THE HOURS OF 06:00 HOURS – 22:00 HOURS MONDAY TO SATURDAY AND 07:00 HOURS – 20:00 HOURS ON SUNDAYS AND BANK HOLIDAYS FOR A PERIOD OF 6 MONTHS ALDI, LLYNFI ROAD, MAESTEG

**PROCEDURE** WRITTEN REPRESENTATION

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reason:

The proposed relaxation of the hours of operation for a temporary period of 6 months to allow Deliveries from 6am in the morning (Mon-Sat) would have a detrimental impact on the residential amenities of neighbouring residential occupiers by way of noise pollution during anti-social hours contrary to Policy SP2 of the Bridgend County Borough Council Local Development Plan 2013 and advice contained within Planning Policy Wales 11 (February 2021).

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**CODE NO.** A/21/3271534 (1927)  
**APPLICATION NO.** P/20/1024/FUL

**APPELLANT** MR M KHALIQ

**SUBJECT OF APPEAL** RETENTION OF LOCKABLE STEEL CONTAINER  
LAND AT THE REAR OF 1 & 2 JUBILEE GARDENS AND  
ADJACENT TO THE BARN, PORTHCAWL

**PROCEDURE** WRITTEN REPRESENTATION

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposed retention of the storage container, by reason of its design and location in a rural area, constitutes an undesirable, unjustified and non-compatible form of development outside any existing settlement boundary that is detrimental to the visual amenities and character of the surrounding countryside locality, contrary to Policies PLA1, ENV1 and SP2 of the Bridgend Local Development Plan 2013 and advice contained in Planning Policy Wales (Edition 11, February 2021).
2. The proposed retention of the storage container, by reason of its nature, scale and proximity to residential properties, results in a significant source of nuisance and disturbance to the detriment of the amenities of neighbouring residential properties, contrary to Policies SP2 and ENV7 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 11, February 2021).

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**CODE NO.** A/21/3278527 (1928)  
**APPLICATION NO.** P/20/1027/FUL

**APPELLANT** MR M KHALIQ

**SUBJECT OF APPEAL** CHANGE OF USE FROM POTATO STORE TO BUILDERS YARD  
AND WORKSHOP  
LAND AT THE REAR OF 1 & 2 JUBILEE GARDENS AND  
ADJACENT TO THE BARN, PORTHCAWL

**PROCEDURE** WRITTEN REPRESENTATION

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposal, by reason of its location and form, represents an undesirable, unjustified and non-compatible use in a predominantly rural area outside any existing settlement boundary having a detrimental impact on the character of the surrounding countryside locality and would set an undesirable precedent for further applications for similar development in this area, contrary to Policies PLA1, ENV1 and SP2 of the Bridgend Local Development Plan 2013 and advice contained within Planning Policy Wales (Edition 11, February 2021).

2. The non-conforming use, by reason of its nature, scale and proximity to residential properties, introduces a commercial use results in a significant source of nuisance and disturbance to the detriment of the amenities of neighbouring residential properties, contrary to Policies SP2 and ENV7 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 11, February 2021).
3. The proposal, by reason of its location and form, will materially increase the number of vehicles and also the type of vehicles that use the site, with the intensification of the access road on Jubilee Gardens raising both highway and pedestrian safety concerns contrary to Policies SP2 and SP3 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales Edition 11, 2021.
4. The proposal, by reason of its form and location outside the settlement of Porthcawl and within the countryside that is not accessible by a range of different transport modes, is considered an unsustainable form of development that is contrary to Policies SP2 and SP3 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales Edition 11, 2021.

**CODE NO.** D/21/3281863 (1929)  
**APPLICATION NO.** P/21/239/FUL

**APPELLANT** MR S ANKERS

**SUBJECT OF APPEAL** TWO STOREY/SINGLE STOREY REAR EXTENSIONS  
 4 BOWER STREET, KENFIG HILL

**PROCEDURE** HOUSEHOLDER

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reason:

1. The proposed development, by reason of its siting, scale and design, represents an unneighbourly and unacceptable form of development which has a detrimental impact on the residential amenities enjoyed by the occupiers of the neighbouring property known as 6 Bower Street. The proposal is therefore contrary to Policy SP2 of the Bridgend Local Development Plan (2013), Supplementary Planning Guidance 02: Householder Development (2008) and advice contained within Technical Advice Note 12 - Design (2016), Planning Policy Wales (Edition 11, February 2021) and Future Wales – the National Plan 2040 (Feb 2021).

**CODE NO.** A/21/3281824 (1930)  
**APPLICATION NO.** P/21/385/TPN

**APPELLANT** HUTCHISON UK LTD

**SUBJECT OF APPEAL** PRIOR NOTIFICATION FOR PROPOSED 20.0M PHASE 8  
 MONOPOLE WITH WRAPAROUND CABINET AT BASE AND  
 ASSOCIATED ANCILLARY WORKS  
 LAND NEXT TO FARM FOODS, PENTRE FELIN RETAIL PARK,  
 TONDU

**PROCEDURE** WRITTEN REPRESENTATIONS

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reasons:

1. Insufficient details of the proposed development have been submitted to enable an assessment of highway safety considerations to be made.
2. The proposed development is considered premature until such time as the realignment of the A0463 associated with the consented residential development South West of Maesteg Road, Tondu is completed (P/19/915/RES & P/16/366/OUT refer).

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**The following appeals have been decided since my last report to Committee:**

**CODE NO.** A/21/3274317 (1919)  
**APPLICATION NO.** P/20/800/FUL

**APPELLANT** MR & MRS NOBLE HOOK

**SUBJECT OF APPEAL** RETENTION OF AN EXISTING OUTBUILDING ERECTED FOR THE PROVISION OF THERAPY TO ADULTS AND CHILDREN WITH LEARNING DIFFICULTIES AND SPECIAL NEEDS  
TYNTON FARM, MOUNT PLEASANT COTTAGES, LLANGEINOR

**PROCEDURE** WRITTEN REPRESENTATION

**DECISION LEVEL** DELEGATED OFFICER

**DECISION** THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED.

A copy of the appeal decision is attached as **APPENDIX A**

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**CODE NO.** A/21/3274987 (1920)  
**APPLICATION NO.** P/20/752/FUL

**APPELLANT** MR & MRS KELLY

**SUBJECT OF APPEAL** PART CONVERSION OF GARAGE & ROOF EXTENSION TO CREATE 1-BED RESIDENTIAL UNIT; ASSOCIATED EXTERNAL ALTERATIONS  
19 COYCHURCH ROAD, PENCOED

**PROCEDURE** WRITTEN REPRESENTATION

**DECISION LEVEL** DELEGATED OFFICER

**DECISION** THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED.

A copy of the appeal decision is attached as **APPENDIX B**

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**CODE NO.** ENV/3275423 (1921)  
**APPLICATION NO.** T/21/7/TPO

**APPELLANT** MR A HOWELL

**SUBJECT OF APPEAL** CONTINUAL POLLARDING OF TREES (T/18/17/TPO REFERS)  
REAR OF 44 BRIARY WAY, BRACKLA, BRIDGEND

**PROCEDURE** WRITTEN REPRESENTATION

**DECISION LEVEL** DELEGATED OFFICER

**DECISION** THE INSPECTOR APPOINTED BY THE WELSH MINISTERS  
TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL  
BE DISMISSED.

A copy of the appeal decision is attached as **APPENDIX C**

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**CODE NO.** A/21/32761 (1922)  
**APPLICATION NO.** P/20/859/FUL

**APPELLANT** MR GURPREET SINGH

**SUBJECT OF APPEAL** CHANGE OF USE OF RETAIL SHOP (A1) TO HOT-FOOD  
TAKEAWAY CHIP SHOP (A3)  
10 CAERAU ROAD, MAESTEG

**PROCEDURE** WRITTEN REPRESENTATION

**DECISION LEVEL** DELEGATED OFFICER

**DECISION** THE INSPECTOR APPOINTED BY THE WELSH MINISTERS  
TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL  
BE DISMISSED.

A copy of the appeal decision is attached as **APPENDIX D**

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**RECOMMENDATION**

That the report of the Corporate Director Communities be noted.

**Janine Nightingale**  
**CORPORATE DIRECTOR COMMUNITIES**

**Background Papers** (see application reference number)

## Penderfyniad ar yr Apêl

Ymweliad safle a wnaed ar 22/06/21

gan Hywel Wyn Jones, BA (Hons) BTP  
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 27/8/21

## Appeal Decision

Site visit made on 22/06/21

by Hywel Wyn Jones, BA (Hons) BTP  
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 27/8/21

**Appeal Ref: APP/F6915/A/21/3274317**

**Site address: Tynton Farm, Llangeinor, Bridgend, CF32 8NY**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs Noble Hook against the decision of Bridgend County Borough Council.
- The application Ref: P/20/800/FUL dated 14 October 2020, was refused by notice dated 7 April 2021.
- The development is described as the retention of an existing outbuilding erected for the provision of therapy to adults and children with learning difficulties and special needs.

### Decision

1. The appeal is dismissed.

### Procedural and preliminary Matters

2. As the subject works have been undertaken the appeal seeks retrospective permission.
3. The appellants are critical of the Council's handling of the planning application but, as that is not a matter for me, I have confined my considerations to the planning merits of the development.

### Main Issues

4. The main issues are:
  - (i) the effect of the building on the setting of Tynton listed building; and
  - (ii) whether the scheme constitutes an exception to the rural restraint strategy of the development plan.

### Reasons

5. The appeal property comprises a large two-storey farmhouse with a collection of outbuildings, both modern and traditional, loosely grouped around it and surrounded by fields. Some of the traditional, stone-built buildings are in a

dilapidated condition. The site is elevated above the nearby settlement of Llengeinor and is accessed by a private track.

6. The appeal building and its adjacent stone surfaced outdoor amenity space are enclosed on 3 sides by ranch style fencing. It fronts the driveway to the farmhouse and is elevated above the valley side that slopes steeply away at its rear. The building has painted timber clad walls under a shallow pitched roof. It is similar in size and design to a garden shed or summerhouse. Internally there is a treatment room accessed directly from the front double doors and a small wc room in a rear corner.

*Setting of listed building*

7. The farmhouse is a 17<sup>th</sup> century two-storey building which is listed not only because of its historical associations with the eminent philosopher, Dr Richard Price, but also as a largely intact vernacular farmhouse.
8. The large farmhouse has an imposing presence which is emphasised by its orientation and elevated location which provides it with commanding views over the Garw Valley and an extensive area of countryside beyond. Despite its modest size, the siting of the appeal building in front of the farmhouse and adjoining the driveway access means that it is a conspicuous feature in this view. It is also prominent on approaching the farmhouse along the access track and from within the parking area serving the house.
9. The building's lightweight modern appearance and colour combined with its prominent siting means that it is an incongruous feature in the context of the farmhouse and its rural setting. Its prominence is further emphasised by the fencing, picnic table and potted plants within the dedicated outside space and its position close to the edge of the steep valley slope. Its presence intrudes on the setting of the farmhouse and harms its special character, and as such it is contrary to policy SP5 of the Bridgend Local Development Plan 2006-2021 which seeks to conserve, preserve or enhance the built and historic environment.
10. The appellants point to their work to renovate and maintain the farmhouse; however such considerations do not justify permitting development that harms the building's setting. It is also stated that as there are no public vantage points any effect on the setting is only viewed by occupiers of the farmhouse, visitors and clients. Such a consideration does not warrant permitting such harm particularly given the relevant statutory duty<sup>1</sup>.

*Rural restraint strategy*

11. The LDP identifies the site as falling within the countryside. Both local and national policies seek to protect the countryside by strictly controlling development in such areas, directing most new development to within settlements.
12. LDP policy ENV1 is of particular relevance; it identifies 10 types of development that may be acceptable in the countryside and provides an expectation that where possible such development should utilise existing buildings and previously developed land and/or have an appropriate scale, form and detail for its context. The supporting text to the policy explains that development in the countryside should benefit the rural economy, whilst maintaining or enhancing the environment.

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<sup>1</sup> Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990



13. The appellants suggest that the scheme could be considered to fall within the third development type listed in ENV1. I disagree – whilst the specific type of work undertaken may benefit from the peaceful environment found in this area of countryside, the provision of healthcare facilities cannot be treated as a rural enterprise for the purposes of this policy. There is no dispute that the scheme does not fall within any of the other specified development types.
14. The appellants opine that the types of development listed in the policy should not be considered an exhaustive list of what should be deemed acceptable and points to particular requirements of the subject use that requires a countryside location. However, it seems to me clear from the policy's wording that only the development types listed are exceptions to the restrictive approach of the policy and as such the scheme conflicts with it. I shall therefore consider whether the scheme should be permitted in the countryside despite this conflict, bearing in mind that paragraph 4.1.12 of the LDP explains that policy ENV1 will not be set aside lightly in the interests of maintaining the integrity of the countryside.
15. There is no dispute that the building's countryside location offers an ideal environment for this specialist facility by providing therapy in a calm, tranquil setting which is better suited to clients' needs than a traditional clinical environment. The appeal is also supported by the testimonies of practitioners in this field who attest to the particular value of the service provided and to the importance of a countryside setting to the success of the treatment.
16. I agree with the Council that the particular circumstances, including the fact that clients are unlikely to use public transport, means that the site's poor performance in terms of sustainable transport does not weigh heavily against the scheme. However, the Council considers that the benefits to clients does not justify departing from the development plan's protective provisions of the countryside and is fearful of the cumulative impact of granting permissions too often. However, whilst I appreciate the general relevance of such a concern, there is a particular justification in this case. The combination of the small-scale nature of the development, the highly specialised nature of the work and, as the appellants point out, the particular need to be sited in the countryside seems to me to be a combination of factors unlikely to be repeated often. Thus, in principle I consider that an exception to the general restraint strategy could be made in this case.
17. However, in line with the approach taken by policy ENV1 consideration should first be given to the potential of converting an existing building. The appellants assert that it would not be practical or economically viable to convert an existing outbuilding on the property. However, there is only limited evidence provided to support this contention which includes an estimate for the total cost of the renovation of one building, without a detailed breakdown or explanation of the works undertaken. There is no detail on the economic viability of the enterprise against which to assess the reasonableness of alternatives or the long-term future of the project. Moreover, there has been no consideration of utilising buildings in other countryside locations and, whilst I acknowledge the convenience to the appellants of having the facility close to their home, that is not in itself a justification for permitting a new building to be constructed in the countryside.
18. I am not satisfied that the scheme has adequately explored the option of utilising an existing building and, with reference to the first main issue, I have found that it is not of a form appropriate to its context. In these respects, the scheme does not align with the expectations of ENV1 in relation to development in the countryside.

19. On this main issue I conclude that the scheme has not established a justification for its siting in the countryside, in conflict with the restrictive strategy of the LDP as set out in policy ENV1.

*Other Matters*

20. I acknowledge that the expert treatments offered on the site will be of great value to those in need. However, the realisation of such benefits does not require the building to be sited in such a position as to harm the setting of a listed building. Furthermore, it has not been established that there are no other means of providing such a facility which is more closely aligned to the development plan's strategy on development in the countryside.

**Planning Balance and Conclusion**

21. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010 which sets out the relevant protected characteristics which includes disability. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the Act. There would be an adverse impact on individuals with a protected characteristic who may not be able to access the treatment they currently receive at the site. However, having due regard to this, and to the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing the scheme on those with protected characteristics would be justified and the decision would be necessary and appropriate, having regard to the harmful effect of the proposed development in relation to both main issues.
22. Thus, whilst I afford significant weight to the important benefits provided by the specialist treatments administered within the appeal building, they do not outweigh the substantial harm that I have identified. I shall therefore dismiss the appeal.
23. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objectives.

*Hywel Wyn Jones*

INSPECTOR



## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 26/07/21

gan J Burston, BSc MA MRTPI AIPROW

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 24/8/21

## Appeal Decision

Site visit made on 26/07/21

by J Burston, BSc MA MRTPI AIPROW

an Inspector appointed by the Welsh Ministers

Date: 24/8/21

**Appeal Ref: APP/F6915/A/21/3274987**

**Site address: 19 Coychurch Road, Pencoed, Bridgend, CF35 5NH**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs Kelly against the decision of Bridgend County Borough Council.
- The application Ref: P/20/752/FUL dated 28 September 2020, was refused by notice dated 26 March 2021.
- The development proposed is part conversion of garage and roof extension to create 1-bed residential unit and associated external alterations.

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this case are the effect of the proposed development on: the character and appearance of the street scene; the living conditions of neighbouring occupiers, with particular regard to privacy; and the living conditions of future occupiers, with particular reference to outside living space.

### Reasons

#### *Character and appearance*

3. Planning Policy Wales, edition 11 (PPW) emphasises the importance of good design. Moreover, Bridgend Local Development Plan (LDP) Policy SP2 requires development to have a design of the highest quality possible, whilst respecting and enhancing local character and distinctiveness and landscape character, whilst also being of an appropriate scale, size, and prominence. The Council's Supplementary Planning Guidance Note 02 Householder Development (SPG) aims to ensure the integration of development into the surrounding area.
4. The proposal would replace the existing double garage with a single garage and 1-bedroom maisonette above. The new structure would have a similar footprint to the existing single-storey double garage. However, although the design proposed has sought to minimise any enlargement, the development would nonetheless be a higher structure with a considerably bulkier roofscape.

5. The dwellings along Glossop Terrace, which forms the street scene in which the appeal site would be viewed, form a row of two-storey terrace houses, with strong architectural detailing and fenestration. These are situated close to the highway, behind a low boundary wall. The position of these dwellings along Glossop Terrace results in them not being widely visible in the surrounding area. By contrast the existing double garage is relatively prominent due to its position close to the junction of Coychurch Road with Glossop Terrace.
6. It seems to me that the new building by reason of its increase in scale would be even more apparent than what exists at present. Indeed, I consider that it would have the appearance of a small dwelling lacking in design features sympathetic to the local vernacular, which would not accord with the prevailing pattern of development and would unacceptably harm the character of the street scene.
7. I have had due regard to the other examples cited by the appellant to support his case. However, whilst these are important considerations, I do not know the circumstances of the examples to determine how similar they are to the case now before me. Having carefully weighed matters up, though, the presence of the developments referred to does not outweigh the harm that I have identified, due largely to its visual prominence and particular location.
8. For these reasons I conclude that the proposal would have an adverse impact on the character and appearance of the street scene. Accordingly, I conclude that the proposal would be contrary to PPW and LDP Policy SP2 and the provisions of SPG as set out above.

#### *Living conditions of neighbouring occupiers*

9. The SPG states at Note 6 that development "*should respect the privacy of neighbouring houses*". Furthermore, paragraph 4.6.3 sets out that privacy of neighbouring occupiers can be affected and "*To reduce the loss of privacy it is recommended that the minimum distance from the new habitable room window to the boundary should be 10.5 metres, increasing to 12 metres if the window is to a first floor living room, because of the extended day-time occupancy of such a room.*" It is common ground that this separation distance cannot be achieved between the appeal site and 19 Coychurch Road. At its closest point the distance is only 1.5 metres.
10. In such situations the SPG suggests that a reduction in the separation distance may be acceptable where a window could be obscurely glazed and fixed shut. To my mind such an approach would be possible for the impacted windows on the proposed dwelling, including the ground floor window (which serves a bathroom) and the ground floor access door. The first-floor window is located on a staircase and primarily would provide light to the stair well, obscure glazing would blur views from it but would still allow sufficient light to enter the proposed dwelling. Planning conditions would ensure that such measures are put in place to protect neighbouring privacy.
11. Turning to the neighbouring occupier at 2 Glossop Terrace. The development would include a first-floor extension over the garage, which would introduce first floor windows closer to the side boundary than currently exists. The outlook for this window would primarily be towards the side elevation of no 2, and its rear garden. This would increase the levels of overlooking. However, only a small portion of this neighbouring garden would be affected, primarily the areas close to the side boundary and such views would be at an oblique angle. I am satisfied that the overlooking would not result in a significant loss of privacy to this neighbouring occupier.

Furthermore, the appellant states that the windows located on the side elevation of no. 2 do not serve habitable rooms and I have no evidence to disagree with this statement.

12. With regards to overshadowing, due to the position of the proposal any potential overshadowing is likely to be confined to the latter parts of the day when the sun is at its lowest. The proximity of other neighbouring structures would result in varying degrees of shadowing to neighbouring properties and gardens. There is no substantive evidence to quantify the level, if any, of shadowing effects from the proposed dwelling. In any event due to the location of the development in relation to neighbouring dwellings and existing structures any shading is not likely to be substantial overall.
13. I therefore conclude, based on my findings, that the proposed dwelling would not harm the living conditions of the occupiers of the neighbouring properties. It would therefore comply with the requirements of LDP Policy SP2 which amongst other considerations seeks to ensure that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected.

*Living conditions of future occupiers*

14. The proposed development would not have any private amenity space. A minimal amount of communal amenity space would be provided at the rear of the proposal, to which future occupiers would have direct access to store bins, dry washing or sit outside. The Council has no adopted policy prescribing minimum outdoor space standards and many residential properties nearby above shops and blocks of flats have no external amenity space at all. The nature of the proposed dwelling in this case is such that it is unlikely to be occupied by a family with children requiring outdoor amenity space, so the limited amount of amenity space proposed here is not a reason to dismiss the appeal.
15. Accordingly, the proposed dwelling would not harm the living conditions of future occupiers. It would therefore comply with the requirements of LDP Policy SP2 which amongst other considerations seeks to ensure that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected.

**Conclusion**

16. Whilst I have found no significant adverse effects on the living conditions of neighbouring and any future occupiers, I have found that the proposal would result in an adverse impact on the character and appearance of the area. Therefore, the appeal scheme would be contrary to the development plan taken as a whole and material considerations do not indicate planning permission should be forthcoming in spite of this. For these reasons, and having had regard to all matters raised, the appeal is dismissed.
17. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objectives of making our cities, towns and villages even better places in which to live and work.

*J Burston*, INSPECTOR

## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 17/08/21

gan R Duggan BSc (Hons) DipTP  
MRTPI

Arolygydd a benodir gan Weinidogion Cymru  
Dyddiad: 16.09.2021

## Appeal Decision

Site visit made on 17/08/21

by R Duggan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers  
Date: 16.09.2021

**Appeal Ref: ENV/3275423**

**Site address: 44 Briary Way, Brackla, Bridgend CF31 2PU**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent to undertake work to trees protected by a Tree Preservation Order.
- The appeal is made by Mr Alun Howell against the decision of Bridgend County Borough Council.
- The application Ref: T/21/7/TPO, dated 21 January 2021, was refused by notice dated 14 April 2021.
- The work proposed is the continual pollarding of trees.
- The relevant Tree Preservation Order (TPO) is the Ogwr Borough Council Tree Preservation Order (No. 6) 1988 Land at Lower Tremains, Brackla, Bridgend which was confirmed on 21 April 1988.

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the Council's decision to refuse consent to undertake the proposed works to the trees is justified, having regard to the contribution that they make to public amenity and the reasons put forward for the work.

### Reasons

3. The appeal trees are located just beyond the rear boundary fence of the Appellant's property. They form part of a linear grouping of mature trees of varying species that generally follow the route of a small stream that travels through the housing estate and to the rear of the houses on Briary Way. The appeal trees, along with the many other trees in the area, provide an attractive backdrop to the properties in the area and significantly contribute to the character and appearance of the locality.
4. The basis of the Appellant's case is that the work being proposed would maintain the health of the trees. Whilst I noted on my site visit that regrowth has occurred since the previously approved pollarding in 2019<sup>1</sup>, I do not share the Appellant's view that the proposed additional work would improve the health of the trees. To the contrary, I am concerned about the threat to their continued good health and longevity arising

<sup>1</sup> Consent granted for pollarding of trees under Application Ref: T/18/17/TPO

from further pruning works so soon after the 2019 pollarding. Although I agree in part with the evidence put forward by the Appellant<sup>2</sup>, this does not alter the concerns that I have regarding the impact that further pollarding/pruning work would have on their health at this time.

5. Trees of such age, appearance and condition cannot easily be replaced, particularly within the urban environment, and any potential impact on their future health should be avoided. The trees are clearly tolerant of pollarding/pruning and such works are commonplace to address concerns regarding the height of trees and the impact from shading, as well as addressing defects and to prevent significant limb failure and collapse. Nevertheless, the extent of the previous pollarding works in 2019 have already had a significant impact on the height, shape and health of the trees. Therefore, I am concerned that the proposed additional works at this time would lead to deterioration in their health even with partial recovery in the near future.
6. I also note the Appellant's concerns regarding detritus falling into the garden. Whilst I have sympathy with this matter, I do not regard the nuisance factor of clearing tree related debris as a justification for the works as these are a natural and ordinary consequence of having trees within a residential environment. Shedding of such detritus is a natural occurrence to many trees and is to be expected when inhabiting a sylvan area such as this. The trees have benefitted from TPO status for over three decades and the shedding of waste matter is to be expected when moving to such an area. The clearing of leaf litter and tree debris is part of routine maintenance when living in proximity to trees, and in isolation it provides no justification for undertaking the level of work being proposed to the protected trees. Ultimately, all properties require routine maintenance and undertaking the proposed level of works to trees on this basis would soon result in a denuded townscape.
7. Accordingly, I conclude that the trees are a significant recognisable feature in the locality and contribute to the visual amenities of the area. The proposed works would materially harm the health and future vitality of the trees if undertaken so soon after the last pollarding in 2019. I have taken account of all other matters raised by the Appellant including the fact that he has followed procedures in undertaking the previous pollarding of the trees, but do not find anything which materially alters my view as to the merits of the proposal, based on the main considerations as set out above.
8. For the reasons given above, I conclude that based on the available evidence as presented there are insufficient grounds to justify the proposed works to the appeal trees at this present time. None of the other matters raised are of sufficient weight, in my view, to alter the balance of considerations in this case, which I consider point conclusively towards the refusal of consent.
9. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

*R Duggan*

INSPECTOR

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<sup>2</sup> Extracts from Google regarding Pollarding

## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 17/08/21

gan **J P Tudor BA (Hons), Cyfreithiwr (ddim yn ymarfer)**

Arolygydd a benodir gan Weinidogion Cymru  
Dyddiad: 22.09.2021

## Appeal Decision

Site visit made on 17/08/21

by **J P Tudor BA (Hons), Solicitor (non-practising)**

an Inspector appointed by the Welsh Ministers  
Date: 22.09.2021

**Appeal Ref: APP/F6915/A/21/3276137**

**Site address: 10 Caerau Road, Caerau, Maesteg CF34 0PB**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Gurpreet Singh against the decision of Bridgend County Borough Council.
- The application Ref: P/20/859/FUL, dated 2 November 2020, was refused by notice dated 31 March 2021.
- The development proposed is change of use of retail shop (A1) to hot-food takeaway chip shop (A3).

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposed development on the safety of highway users and on the efficient operation of the highway network.

### Reasons

3. The appeal site comprises a retail shop (Class A1), which was last in use as an opticians. It is located on Caerau Road, which consists mainly of two-storey terraced properties. At the western end of the road there are a mix of commercial outlets at ground floor level, including shops and takeaways, while most of the rest of the street is taken up by residential dwellings. The surrounding area is predominantly residential. The proposal is to change the use of the retail shop to a hot-food takeaway 'chip shop' (Class A3).
4. Although a two lane carriageway, Caerau Road is relatively narrow. The Council, supported by the highway authority (HA)<sup>1</sup>, is concerned that the proposed change of use would result in an increase in demand for short-term on-street parking, including from delivery drivers, which it considers is likely to result in an adverse effect on the safe and efficient use of the highway network. In contrast, the appellant maintains

<sup>1</sup> In the form of the Council's Transportation Policy and Development Section



that the effect of the proposal on highway and pedestrian safety would be similar to the existing situation, given that the appeal premises is a retail shop, albeit long vacant.

5. Policy PLA11 of the Bridgend Local Development Plan 2006-2021 (LDP)<sup>2</sup> advises that all development will be required to provide appropriate levels of parking, which should be in accordance with adopted parking standards. The Council's adopted Supplementary Planning Guidance: Parking Standards (SPG17) indicates that the proposed hot food takeaway would require 1 commercial vehicle space, 1 space for non-resident staff and adequate on-street parking for customers nearby.
6. As the appeal site does not appear to offer any off-street parking, it falls short of the SPG17 requirements. The proposal would, therefore, be entirely dependent on the availability of on-street parking for both deliveries and customers. There are double yellow lines outside the premises and extending along the road, with a single yellow line on part of the other side of the road, indicating parking restrictions.
7. The HA advises that, based on the collective professional experience of its officers, retail shops typically have one to two associated deliveries per week while hot food takeaways, such as 'chip shops', have almost daily supply deliveries. The appellant has not provided any substantive evidence to contradict that assessment. Moreover, the proposed 'chip shop' is likely to attract customers arriving by car, including in the evenings when residential parking along the street might be expected to be at its peak with people arriving home from work, even accepting the changes to work patterns and increase in home working during the Covid 19 pandemic. Overall, I consider that the nature of the proposed use would be likely to result in a material increase in demand for short-stay parking close to the premises.
8. As the road comprises a terrace of commercial and residential uses, where few properties benefit from off-street parking, the Council considers that there is already a high level of demand for on-street parking. That view is supported by photographic evidence submitted with the appeal<sup>3</sup>. While such photographs and my own site visit offer only snapshots in time, the parking situation described by the Council is broadly in accordance with my observations on site, when there were very few legitimate parking spaces available and some vehicles were parked on double yellow lines<sup>4</sup>.
9. It may be that more parking spaces are available at other times of the day. However, there is no compelling evidence before me, such as a parking survey or highway consultant's report, to indicate that spaces would be available nearby at relevant times to accommodate the likely increased parking demand. Therefore, I consider that, in the absence of off-street parking provision, the proposed development would be likely to result in indiscriminate on-street parking by delivery drivers, who are often subject to demanding schedules, and by customers arriving by car. They are likely to seek to park close to the takeaway and may well consider it acceptable to park inappropriately, if necessary, on the basis that it would be for a relatively short period.
10. Given the limited width of the road and its use as a bus route, such indiscriminate parking, including double-parking, would be likely to cause a hazard, obstruct the highway or, at least, restrict it to a single lane. That would cause delay for drivers using Caerau Road and may result in potentially dangerous reversing manoeuvres

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<sup>2</sup> Adopted Plan September 2013

<sup>3</sup> Appendix 1 of the Council's Transportation Section appeal statement: photographs taken at midday on Wednesday 7 July 2021

<sup>4</sup> At about 1430 hours on a weekday

being undertaken near a junction if traffic had backed up. Such delays hindering the progress of traffic along the highway would also be to the detriment of the efficient operation of the highway network. I note that the HA has expressed similar concerns. It also cites complaints received about obstruction of the highway by inconsiderately parked delivery lorries associated with existing commercial uses, including takeaways, along the street.

11. In addition, without suitable spaces available, delivery drivers may consider it necessary to park partially on the footway near the new takeaway, which would be likely to inconvenience pedestrians, particularly those with pushchairs or people using wheelchairs. While the appellant refers to the potential illegality of such parking if causing obstruction, concern that a proposed development will lead to indiscriminate parking with concomitant adverse effects on the safety or convenience of highway users is a relevant planning consideration.
12. Given the largely residential nature of the surrounding streets, it is recognised that some customers may travel to the takeaway on foot. However, as the Council advises that the nearest alternative 'Chip Shops' are between 1km and 2km away, it is reasonable to consider that a significant proportion of customers would arrive by car. Even those who live within theoretical walking distance of the takeaway may choose to use a car to transport food back home quickly, while it is still hot.
13. According to the appellant, the shop has been vacant for some 9 years, but it is understood that it could resume its use as a retail shop, although it would fall short of the parking provision requirements in SPG17. Referring to the Use Classes Order<sup>5</sup> and the existing A1 use, the appellant also contends that the premises could legitimately be re-opened as, for example, a bakery or pasty shop. While that may be, there is no clear or persuasive evidence before me to demonstrate that either the existing shop or those other types of businesses would generate the same likely level or type of parking demand as a hot food takeaway, in terms of frequency of deliveries or short-term customer parking. In addition, the appellant refers to temporary permitted development rights for change of use as a result of the Covid 19 pandemic, but concedes that they would not be applicable to the appeal proposal. Therefore, I give those various alleged 'fall-back' positions limited weight.
14. I have considered if conditions could be imposed to make the proposal acceptable. While the Council suggested a condition requiring the submission of a delivery management plan for approval<sup>6</sup>, it would be difficult to control the actions of third party delivery drivers and would not address customer parking demand. Therefore, in this particular case, I am not satisfied that such conditions would be reasonable or effective in mitigating the harms identified.
15. Overall therefore, based on the evidence before me, I conclude that the proposed change of use would be likely to have an adverse effect on the safety of highway users and on the efficient operation of the highway network. Consequently, the proposal would fail to comply with the broad, strategic aims of LDP policy SP2 to create high quality, sustainable places which enhance communities. It would also conflict with LDP policy PLA11 and the associated parking standards, as set out in SPG17.

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<sup>5</sup> The Town and Country Planning (Use Classes) Order 1987 (as amended)

<sup>6</sup> Without prejudice to the outcome of the appeal

### **Planning Balance and Conclusion**

16. In bringing a vacant shop back into use, the proposal would make a contribution to the regeneration of the area and be in accordance with the aims of LDP policy SP1, which is particularly relevant against the backdrop of the Covid 19 pandemic. While that may be, the beneficial contribution associated with the reopening of one commercial premises would be relatively modest. Moreover, such benefits may be achievable by an alternative scheme that would not result in harm to the safe and efficient use of the highway network. In any event, the modest benefits of the appeal proposal would not outweigh the potential harm to highway users.
17. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015 ('the Act'). I consider that this decision is in accord with the Act's sustainable development principle through its contribution towards one or more of the Welsh Minister's well-being objectives as required by section 8 of the Act.

*JP Tudor*

INSPECTOR

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## BRIDGEND COUNTY BOROUGH COUNCIL

### REPORT TO DEVELOPMENT CONTROL COMMITTEE

COMMITTEE DATE 30 September 2021

#### REPORT OF THE CORPORATE DIRECTOR COMMUNITIES

##### AUDIT OF PLANNING APPLICATIONS & APPEALS AND BUILDING CONTROL

#### 1. Purpose of report

- 1.1 The purpose of this report is to update the Development Control Committee on the outcomes of recent audits of Planning Applications & Appeals and Building Control. The audits were carried out in accordance with the 2021/22 Internal Audit Plan.

#### 2. Connection to corporate well-being objectives/other corporate priorities

- 2.1 This report assists in the achievement of the following corporate well-being objective under the Well-being of Future Generations (Wales) Act 2015:
- Smarter use of resources – ensuring that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives..

#### 3. Background

- 3.1 The purpose of the **Planning Applications and Appeals** audit was to provide assurance on the adequacy and effectiveness of the internal control, governance and risk management arrangements in respect of Planning Applications & Appeals. Audit testing was undertaken in respect of financial years 2020/21 and 2021/22
- 3.2 The Audit scope included ensuring that the following key controls were in place:
- Planning applications are administered promptly and in line with legislation and Council procedures
  - There is a robust decision making process in place and all decisions can be clearly evidenced
  - An effective Planning application appeals process exists that minimises the costs incurred by the Authority
  - The Authority responds appropriately to potential breaches of Planning Regulations

- The Development Control Committee operates in a transparent and accountable manner

3.3 The purpose of the **Building Control audit** was to provide assurance on the adequacy and effectiveness of the internal control, governance and risk management arrangements in respect of Building Control. Audit testing was undertaken in respect of financial year 2020/21 and 2021/22.

3.4 The Audit scope included ensuring that the following key controls were in place:

- All applications are promptly administered and all records updated appropriately to ensure a transparent decision making process
- Ensuring on-site inspections have been undertaken as required
- The processes in relation to the fees charged and income received are robust
- Enforcement action with regards to breaches of Building Regulation is in line with legislation

#### **4. Recommendations, Actions and Conclusions from the Audit Reports**

4.1 For the **Planning Applications and Appeals Audit** it was found that “there is a generally sound system of governance, risk management and control in place.” The Control Objectives included whether:

- applications are administered promptly and in line with legislation and Council procedures;
- there is a robust decision making process and all decisions can be clearly evidenced; the Planning application appeals process is effective and minimises the costs incurred by the Authority;
- there are robust procedures in place to ensure the Authority responds appropriately to potential breaches of Planning Regulations
- the Development Control Committee operates in a transparent and accountable manner.

4.2 During the audit the following strengths and areas of good practice were identified:

- A clear segregation of duties was evident within the decision making process.
- All applications reviewed were authorised in line with the Scheme of Delegation.
- Clear guidance on the Planning application and appeals process is available to the public.
- A segregation of duties within the determination of enforcement action process was evident in all cases.
- All Development Control Committee meetings reviewed were quorate and the minutes available online.

4.3 The following issues were identified during the audit and will be addressed:

- In one payment the financial data input into MasterGov did not reconcile with the ledger.
- Personal data including customers' email addresses were published online in error.

4.4 With specific regard to how the Development Control Committee operates, it was found that:

- there is an up to date documented list of all Members available within the Development Control Committee webpage on the BCBC website;
- there is a completed Code of Conduct Declaration of Personal Interest form for each of the members available on the website for the public to view;
- Members are required to declare their own personal interests at the start of each Development Control Committee meeting and all declarations made at meetings are also available via the website.

4.5 The audit also found that:

- Development Control Committee minutes were available on the BCBC website for all meetings,
- all meetings during the sample period were quorate,
- Members are provided with reports pertaining to recent Planning applications the week prior to Committee meetings and
- each report contains general guidance for Members in relation to the Planning application process.

4.6 The only low priority risk pertaining to the Development Control Committee relates to the fact that only 56% and 50% attended the respective training sessions during the sample period. It was noted that, given that the Code of Practice states that Members "should attend a minimum of 75% of the training arranged," the Auditors felt that Members should be reminded of their responsibilities in relation to training requirements. The Member Training session scheduled for 29 September 2021 will include this advice.

4.7 For the **Building Control Audit**, it was also found that "there is a generally sound system of governance, risk management and control in place." The Control Objectives included whether:

- all applications are promptly administered and records are maintained to ensure a transparent process;
- the processes followed by Building Control in relation to the fees charged and income received are robust and
- the processes followed by Building Control in relation to breaches of Building Regulations are robust and enforcement action is in line with legislation.

4.8 During the audit the following strengths and areas of good practice were identified:

- the department is pro-active in its efforts to attract new customers and generate income for the Authority
- there was a clear segregation of duties evident within the invoicing process

- there was a full audit trail on file for inspections that had taken place
- the percentage of Full Plan applications processed within the statutory determination period increased during 2020/2021

4.9 The following issues were identified during the audit and will be addressed:

- Departmental procedural notes required updating to reflect current practices
- Decisions made by Officers with regards to applications were not documented
- The financial data input into MasterGov is not currently reconciled to the ledger

## **5. Effect upon policy framework and procedure rules**

5.1 The Audit Reports will be used as a basis for reviewing the service areas.

## **6. Equality Impact Assessment**

6.1 There are no direct implications associated with this report.

## **7. Well-being of Future Generations (Wales) Act 2015 implications**

7.1 The report has been prepared in accordance with the 7 Wellbeing goals and the 5 ways of working as identified in the Act.

## **8. The Socio Economic Duty**

8.1 The Socio Economic Duty (under Part 1, Section 1 of the Equality Act 2010), which came in to force on 31 March, 2021, has the overall aim of delivering better outcomes for those who experience socio-economic disadvantage and, whilst this is not a strategic decision, the duty has been considered in the assessment of this application.

## **9. Financial implications**

9.1 None.

## **10. Recommendation(s)**

10.1 That Members of the Development Control Committee note the contents of this report and the findings and recommendations within the Audit Reports for the two service areas.

**Jonathan Parsons**

**Group Manager Planning and Development Services**

30 September 2021

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**Background documents:**

- Planning Applications & Appeals Audit Report
- Building Control Audit Report

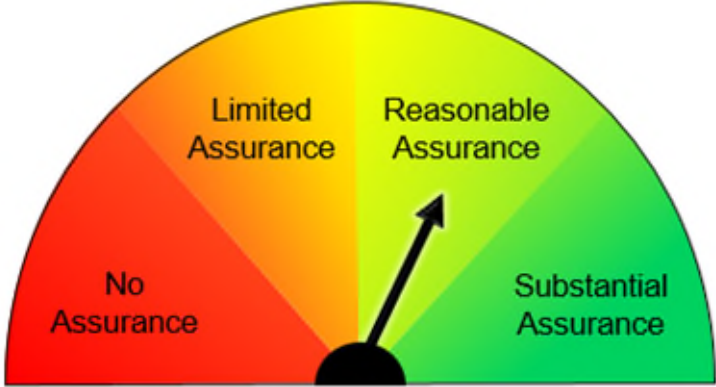
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## Draft Internal Audit Report



## Planning Applications & Appeals

2021/22

AUDIT OPINION	RECOMMENDATION SUMMARY	
	<b>High priority</b>	0
	<b>Medium Priority</b>	3
	<b>Low Priority</b>	9
	<b>Total</b>	<b>12</b>

### REASONABLE ASSURANCE

There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.

### STRENGTHS & AREAS FOR IMPROVEMENT

During the audit a number of strengths and areas of good practice were identified as follows:

- A clear segregation of duties was evident within the decision making process
- All applications reviewed were authorised in line with the Scheme of Delegation.
- Clear guidance on the planning application and appeals process is available to the public
- A segregation of duties within the determination of enforcement action process was evident in all cases.
- All Development Control Committee meetings reviewed were quorate and the minutes available online

The following key issues were identified during the audit which need to be addressed:

- The financial data input into MasterGov is not currently reconciled to the ledger
- Personal data, including customers' email addresses were published online in error

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## 1. INTRODUCTION & BACKGROUND

An audit of Planning Applications & Appeals was undertaken in accordance with the 2021/22 Internal Audit Plan.

This report sets out the findings of the audit and provides an opinion on the adequacy and effectiveness of internal control, governance and risk management arrangements in place. Where controls are not present or operating satisfactorily, recommendations have been made to allow Management to improve internal control, governance and risk management to ensure the achievement of objectives.

Bridgend County Borough Council has a comprehensive scheme of delegation, which results in approximately 95% of all planning applications being determined by Officers. The Development Control Committee comprises 18 elected members and has delegated powers to determine all other planning applications.

## 2. OBJECTIVES & SCOPE OF THE AUDIT

The purpose of the audit is to provide assurance on the adequacy and effectiveness of the internal control, governance and risk management arrangements in respect of Planning Applications & Appeals.

Audit testing was undertaken in respect of financial years 2020/21 & 2021/22

The Audit scope included ensuring that the following key controls were in place:

- Planning applications are administered promptly and in line with legislation and Council procedures
- There is a robust decision making process in place and all decisions can be clearly evidenced
- An effective planning application appeals process exists that minimises the costs incurred by the Authority
- The Authority responds appropriately to potential breaches of planning regulations
- The Development Control Committee operates in a transparent and accountable manner

## 3. AUDIT APPROACH

Fieldwork will take place following agreement of the audit objectives.

A draft report will be prepared and provided to Management for review and comment with an opportunity given for discussion or clarification.

The final report will incorporate Management comments together with a Management Action Plan for the implementation of recommendations.

Governance & Audit Committee will be advised of the outcome of the audit and may receive a copy of the Final Report.

Management will be contacted and asked to provide feedback on the status of each agreed recommendation, once the target date for implementation has been reached.

Any audits concluded with a no assurance or limited assurance opinion will be subject to a follow up audit.

#### 4. ACKNOWLEDGEMENTS

A number of staff gave their time and co-operation during the course of this review. We would like to record our thanks to all of the individuals concerned.

The work undertaken in performing this audit has been conducted in conformance with the Public Sector Internal Audit Standards.

The findings and opinion contained within this report are based on sample testing undertaken. Absolute assurance regarding the internal control, governance and risk management arrangements cannot be provided given the limited time to undertake the audit. Responsibility for internal control, governance, risk management and the prevention and detection of fraud lies with Management and the organisation.

Any enquires regarding the disclosure or re-issue of this document to third parties should be sent to the Head of the Regional Internal Audit Service via [mark.thomas@bridgend.gov.uk](mailto:mark.thomas@bridgend.gov.uk)

## 5. FINDINGS & RECOMMENDATIONS

### 5.1 APPLICATIONS

#### Control Objective: Planning applications are administered promptly and in line with legislation and Council procedures

##### **Strengths:**

The Auditor reviewed data from MasterGov for all Full Planning Applications received for the 6 month period between December 2020 – May 2021. It was noted out of the 439 applications received:

- 245 were approved
- 24 were rejected
- 7 were withdrawn
- 163 were open and ongoing
- 19 / 163 had not yet been validated

The Auditor reviewed the 19 listed above that had not been validated at the time of review and no issues were identified. In all cases, the delay in validating the applications were appropriate and necessary, as the Authority was either awaiting payment or further information from each applicant.

A 20% (50) sample of the 245 approved was selected for review. It was noted that:

- 50 / 50 of applications had a completed National Standard Application Form on file as per the mandatory requirement
- 50 / 50 of applications had been electronically grid stamped to denote when they were received by the section
- 50 / 50 was allocated a unique reference number on MasterGov
- 50 / 50 applications were published on the BCBC website
- 50 / 50 details of each application published (received date, validated date, expiry date, decision date) corresponded to the data held within MasterGov.

Therefore, all information published was accurate and reflected the information held on file

Ref. & Priority	Finding / Weakness	Risk	Recommendation
<p><b>5.1.1</b></p> <p><b>Low</b></p>	<p>The Auditor was provided with clear and detailed procedural notes used by the Minor Applications Team, who are responsible for the registration and administration of new planning applications.</p> <p>It was advised that the current legislation ultimately guides the working practices of the Developmental Control Team, whose responsibilities include on-site inspections and the assessment of planning applications. The only formal procedural note provided to the Auditor was an instruction on how to issue a Decision Notice.</p> <p>The Auditor felt that formal procedural notes should be created to document the Development Control Team's practices which will demonstrate that the procedures ensure that the team comply with relevant legislation.</p> <p>In addition, it was advised that the Development Control Team Leader normally validates each application prior to being allocated to a Planning Officer.</p> <p>Within the sample of approved applications selected for review, it was noted that:</p> <ul style="list-style-type: none"> <li>• 0 / 50 had evidence on file detailing who had validated the application</li> </ul>	<p>Staff are unaware of their responsibilities; applications could be processed in an inconsistent manner and/or delayed unnecessarily; non compliance with legislation</p>	<p>Formal procedural notes are created in relation to the Development Control Team's current practices. To enhance the audit trail of the process, this should include recording is the name of the officer who validates each application</p>



Ref. & Priority	Finding / Weakness	Risk	Recommendation
	<p>Aside from the name of the officer who had initially validated the application, it was noted:</p> <ul style="list-style-type: none"> <li>• 50 / 50 had a full audit trail on EDRM/MasterGov for all applications processed</li> </ul> <p>Given this, the Auditor felt that to enhance the audit trail of the process, a record should be made of the officer who validated each application</p>		
<p><b>5.1.2</b> <b>Low</b></p>	<p>The Auditor reviewed the literature available to the public via the BCBC website and noted that, along with the links to additional information within the Planning Portal, the guidance was detailed and clear.</p> <p>The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) (Amendment) Regulations 2020 dictate the fees and charges that an Authority must use in relation to planning applications.</p> <p>The Auditor reviewed the fees and charges listed on the BCBC website and compared it to the legislative figures (listed within the Planning Portal). It was noted that all figures</p>	<p>Incorrect information provided to the public; potential loss of income for the Authority</p>	<p>The planning application fees and charges listed on the BCBC website are amended to correct the error identified within the report</p>

Ref. & Priority	Finding / Weakness	Risk	Recommendation
	<p>aligned with those detailed, except for the following fee:</p> <ul style="list-style-type: none"> <li>• 'Erection, alteration or replacement of plant and machinery'. Maximum fee of £80k for those greater than 5 hectares</li> </ul> <p>It was noted that the correct figure for the maximum fee in this case should be listed as £300k.</p>		
<p><b>5.1.3</b> <b>Low</b></p>	<p>The Town and Country Planning (Development Management Procedure) (Wales) Order 2012 states that when an application has been validated <i>“the authority must, as soon as is reasonably practicable, send to the applicant an acknowledgement of the application in the terms (or substantially in the terms) set out in Schedule 1.”</i></p> <p>For the same 50 cases reviewed above, it was noted that:</p> <ul style="list-style-type: none"> <li>• 50 / 50 cases were issued acknowledgement letters after the application was validated</li> <li>• 7 / 50 (14%) cases had an acknowledgement letter issued 1 -2 weeks after validation date</li> </ul>	<p>No audit trail; planning applications are delayed unnecessarily; reputational damage to Authority</p>	<p>Where possible, efforts should be made to ensure that acknowledgement letters are issued to customers in a timely manner after the application has been validated</p>

Ref. & Priority	Finding / Weakness	Risk	Recommendation
	<ul style="list-style-type: none"> <li>• 22 / 50 (44%) cases had an acknowledgement letter issued 2 - 3 weeks after validation date</li> <li>• 20 / 50 (40%) cases had an acknowledgement letter issued 3 - 4 weeks after validation date</li> <li>• 1 / 50 (2%) cases had an acknowledgement letter issued 9 weeks after validation date. It was identified that this was due to an administrative error and an apology was issued to the customer via email</li> </ul> <p>Given that there was a delay of at least 3 weeks for 42% of successful applications from the validation date to the issue of an acknowledgement letter, it was felt that, where possible, efforts are made to ensure that letters are issued to customers in a more timely manner.</p>		
<b>5.1.4</b>  <b>Low</b>	<p>The Local Government (Access to Information) Act 1985 allows the public to inspect, and make copies of, documents in connection with current planning applications. The Council's online Planning Register has application forms, plans and any other supporting information (and decision notices following determination) available to view at any time.</p>	<p>Planning Application data is not published in a timely manner; non compliance to legislation</p>	<p>The weekly list of planning applications posted online details the date of publication</p>

Ref. & Priority	Finding / Weakness	Risk	Recommendation
	<p>From the sample referenced above it was noted although comprehensive information and documentation was published in relation to each application, the Auditor was unable to determine if they were published in a timely manner as the weekly lists posted online did not detail the publication date.</p>		
<p><b>5.1.5</b> <b>Medium</b></p>	<p>The Auditor reviewed the documentation on the website to determine if any personal data was present. It was noted:</p> <ul style="list-style-type: none"> <li>• The majority of applications had personal data redacted where appropriate</li> <li>• 4 / 50 applications published had documents detailing the customer's personal email address</li> <li>• 3 / 50 applications published had documents detailing the personal email addresses of BCBC officers</li> </ul>	<p>Non-compliance to GDPR policies/legislation; potential fines.</p>	<p>All personal data, such as email addresses, must be redacted prior to publication. Staff are reminded only their BCBC email addresses should be used for business purposes. A review is carried out to identify any personal data that has been published that could demonstrate non-compliance to GDPR legislation</p>
<p><b>5.1.6</b> <b>Medium</b></p>	<p>Planning application income has been taken exclusively via debit/credit card over the telephone since the introduction of remote working. Minor Application Team officers take the payment using Paye.net and then manually inputs the details onto the MasterGov system against the corresponding application reference.</p>	<p>Inability to confirm receipt of income; Monies received could be unidentified and misappropriated</p>	<p>Regular reconciliations from the general ledger to MasterGov should be undertaken to confirm that all payments have been recorded correctly. This should be verified by an officer who is independent of the payment process.</p>

Ref. & Priority	Finding / Weakness	Risk	Recommendation
	<p>The Auditor selected the month of May 2021 and compared the income data input on MasterGov to the income recorded on the general ledger. Out of 44 transactions totalling £44,670 from the ledger, the Auditor was able to reconcile:</p> <ul style="list-style-type: none"> <li>• 43 / 44 transactions totalling £44,440 back to MasterGov</li> </ul> <p>The Auditor identified that 1 payment taken via the Planning Portal for £230 had been recorded on MasterGov as £460. The total fee of the application was £460, so £230 remained outstanding, however no outstanding charge was showing on Mastergov. It was advised that this was an error and the customer would be contacted in due course to arrange for the additional payment to be taken.</p> <p>Given that certain risks are associated with manually inputting payment information onto a system, such as human error or potential misuse, the Auditor felt that regular reconciliations from general ledger to MasterGov should be undertaken to confirm that all payments have been recorded correctly. In addition, in order to ensure that a segregation of duties is present within the process, the reconciliation should be verified by an officer independent of those who are</p>		

Ref. & Priority	Finding / Weakness	Risk	Recommendation
	responsible for taking and recording payments.		
<b>5.1.7</b>  <b>Low</b>	<p>No formal procedural note is used for the processing of refunds, however, it was advised that the Minor Applications Assistant is responsible for this task and obtains authorisation from the Minor Applications Team Leader prior to actioning refunds. All relevant correspondence is uploaded onto EDRM.</p> <p>The Auditor selected the months of April and May 2021, where there had been 18 refunds totalling £4,835, to review. It was noted that:</p> <ul style="list-style-type: none"> <li>• 17 / 18 had evidence on EDRM that the refund was authorised by the Minor Applications Team Leader prior to actioning</li> <li>• 1 / 18 did not have evidence of prior authorisation on EDRM due to an oversight. This was uploaded after being queried by the Auditor.</li> </ul> <p>In addition, it was also noted:</p> <ul style="list-style-type: none"> <li>• 11 / 18 refunds were not recorded on MasterGov</li> </ul> <p>These were instances where customers made duplicate payments via the Planning Portal and were subsequently refunded the</p>	Lack of audit trail; Refunds are given that are unauthorised or to applicants where the original payment has not cleared	A formal procedural note is created in relation to refunds. For a full audit trail of the payment activity, all transactions including all duplicate payments and refunds are recorded on MasterGov

Ref. & Priority	Finding / Weakness	Risk	Recommendation
	payments that were made in error. Only the correct payments were recorded in these cases. The Auditor felt that the MasterGov system should be utilised to record a full audit trail of payment activity, including all duplicate payments and refunds.		

5.2 DECISION MAKING PROCESS			
Control Objective: There is a robust decision making process and all decisions can be clearly evidenced			
	<p><b>Strengths:</b></p> <p>It was identified that there were clear governance arrangements in place to support the decision making process. Guidance on this arrangement is available to the public via the BCBC website.</p> <p>It was noted that within the 2020/21 financial year in line with the scheme of delegation:</p> <ul style="list-style-type: none"> <li>• 96.5% of planning applications were decided by Officers using delegated powers</li> <li>• 3.5% of planning applications were decided by the Development Control Committee</li> </ul> <p>A clear segregation of duties was evident within the decision making process and all applications reviewed were authorised in line with the Scheme of Delegation.</p>		
Ref. & Priority	Finding / Weakness	Risk	Recommendation
5.2.1 Low	It was advised that although no formal procedure is in place, officers are aware that they should declare any personal interest or	Officers act inappropriately when dealing with applications	A register is created in relation to the declaration of the personal interests of officers

Ref. & Priority	Finding / Weakness	Risk	Recommendation
	<p>association with applications received to a senior officer in order for the case to be reallocated to another member of the team.</p> <p>It was identified that within the Planning Code of Practice there was clear guidance for Committee Members on declaration of interest, but nothing in relation to officers.</p>		
<p><b>5.2.2</b></p> <p><b>Low</b></p>	<p>After reviewing the reports sent to Welsh Government in relation to quarterly Development Management performance statistics, it was noted that the percentage of applications determined within the statutory period had decreased from 77.5% in 2019/20 (Wales average for the year was 85.8%) to 65.3% (Wales average not available at time of review) in 2020/21.</p> <p>The Auditor noted that cases where planning applications are likely to go over the 8 week statutory determination period, the Council can obtain permission from the applicant to extend the period. This is clearly outlined in the Acknowledgement Letter sent to customers after the application has been validated.</p> <p>For the same 50 approved applications referenced above, it was identified that 27 were approved within the 8-week statutory</p>	<p>Decisions are challenged due to non compliance with timeframes</p>	<p>For all planning applications determined outside the statutory determination period, an extension is agreed with the customer and documented on file</p>



Ref. & Priority	Finding / Weakness	Risk	Recommendation
	<p>determination period. For the remaining applications it was noted that:</p> <ul style="list-style-type: none"> <li>• 10 / 23 had evidence on file documenting that the extension had been agreed with the applicant</li> <li>• 13 / 23 had no evidence on file that an extension was agreed with the applicant</li> </ul>		

### 5.3 APPEALS

**Control Objective: The planning application appeals process is effective and minimises the costs incurred by the Authority**

**Strengths:**

There are links within the Planning webpage that direct the public to clear guidance within the Planning Portal regarding the appeals process. In addition to this, customers who are unsuccessful with a planning application are issued guidance on the appeals procedure along with the decision notice.

Using the same sample of rejected planning applications referenced in 5.1.2, it was noted that appeals guidance was issued alongside the decision notice in all cases.

The Auditor reviewed the departmental appeals procedural notes and noted they aligned with the information provided to the public online. In addition, examples of good practice were identified where tailored reports were regularly provided to the Development Control Committee to inform them of current appeal decisions.

The Auditor chose a 50% sample (34) of appeals received since 01/04/2020 to date to review. It was noted that:

- There was a full audit trail for 33 / 34 appeals on EDRM
- Evidence was viewed that all requested documentation in relation to 33 / 34 appeals was provided to the Planning Inspectorate within the deadlines imposed in the Appeal Start Letter
- The Auditor was satisfied that the anomalies noted above were due to oversight and no issues were identified

	<ul style="list-style-type: none"> <li>All appeal decisions were publicly available on the BCBC website</li> </ul>
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**5.4 ENFORCEMENT**

**Control Objective: There are robust procedures in place to ensure the Authority responds appropriately to potential breaches of planning regulations**

**Strengths:**

The notes provided to members of the public after they had contacted the Authority to make a complaint were found to be clear and concise. Clear information on how to report a potential breach was located within the Planning webpage on the BCBC website.

A segregation of duties within the determination of enforcement action process was evident in all cases. All cases were reviewed & authorised by the Development & Building Control Manager and the Development Control Manager correctly under Delegated Powers.

A confirmation of the enforcement action decision was provided to the complainant within 10 days of the date of determination for all cases.

There was a clear audit trail for all cases reviewed.

Ref. & Priority	Finding / Weakness	Risk	Recommendation
5.4.1 Medium	It was advised that the departmental procedural notes in relation to planning enforcement action were outdated and irrelevant to the current working practices. However, the Auditor was provided with the Planning Enforcement Charter, that outlines to the public the processes and enforcement actions the Authority will undertake in the event of a breach of planning control.	Process is inconsistent; decisions made by Authority are open to challenge; excessive enforcement action taken in cases	

Ref. & Priority	Finding / Weakness	Risk	Recommendation
	<p>The Auditor noted that elements of the Charter were out of date and it was no longer available via the BCBC website. It was advised that it was possibly removed in error when the content of the webpages were updated to be bilingual.</p> <p>It was also identified that the online enforcement action register had not been updated with new cases since July 2020.</p>		
<p><b>5.4.2</b></p> <p><b>Low</b></p>	<p>The Charter states: <i>“The Council aim to make this decision not later than 12 weeks after the receipt of the complaint”</i> and the <i>“site inspection will be carried out within 21 working days of the complaint being received”</i></p> <p>The Auditor reviewed MasterGov reports for the 2020/21 year. It was noted that out the 302 cases that were resolved during the year:</p> <ul style="list-style-type: none"> <li>• 206 / 302 (68.2%) were resolved within 12 weeks after the complaint was received</li> <li>• 96 / 302 (31.8%) were not resolved within 12 weeks after the complaint was received</li> </ul> <p>The Planning Enforcement Officer is the only officer responsible for investigating complaints. He advised that due a high increase in workload during the previous year, cases were not always</p>	<p>Failure to comply with legislation; decisions made by Authority are open to challenge; unnecessary financial costs incurred</p>	<p>Where possible, efforts are made to increase the number of planning enforcement cases that are resolved within 12 weeks after the date of the initial complaint</p>

Ref. & Priority	Finding / Weakness	Risk	Recommendation
	resolved within 12 weeks. Also other factors, such the non-co-operation of developers and appeals made against enforcement action taken means that some cases will always take an extended period of time to resolve.		

5.5 DEVELOPMENT CONTROL COMMITTEE	
Control Objective: The Development Control Committee operates in a transparent and accountable manner	
	<p><b>Strengths:</b></p> <p>There is an up to date documented list of all members available within the Development Control Committee webpage on the BCBC website.</p> <p>There is a completed Code of Conduct Declaration of Personal Interest form for each of the members available on the website for the public to view. Members are also required to declare their own personal interests at the start of each Development Control Committee meeting. All declarations made at meetings are also available via the website.</p> <p>There had been 9 committee meetings for the period July 2020 and May 2021. It was noted that:</p> <ul style="list-style-type: none"> <li>• minutes were available on the BCBC website for all meetings</li> <li>• all meetings were quorate</li> </ul> <p>Members are provided with reports pertaining to recent planning applications the week prior to Committee meetings. Each report contains general guidance for members in relation to the planning application process.</p>

Ref. & Priority	Finding / Weakness	Risk	Recommendation
<p><b>5.5.1</b></p> <p><b>Low</b></p>	<p>The initial training provided to new members includes a review of the Planning Code of Practice, which clearly details the appropriate roles and responsibilities of a Committee Member. Additional training on a range of topics relevant to the planning is also provided within the same week of each Committee meeting.</p> <p>The attendance records from the meetings held in April and May 2021 were reviewed by the Auditors. It was noted that only 56% and 50% attended the respective training sessions which were provided remotely.</p> <p>Given that the Code of Practice states that members “<i>should attend a minimum of 75% of the training arranged</i>”, the Auditors felt that members should be reminded of their responsibilities in relation to training requirements.</p>	<p><i>Misinterpretation of applications; Error in decision making.</i></p>	<p>Members are reminded of their responsibilities detailed within the Planning Code of Practice in relation to training requirements</p>

## 6. MANAGEMENT ACTION PLAN

Report Ref & Priority	Recommendation	Agreed (Y/N)	Management Comments	Job Title of Officer Responsible	Date to be Implemented
5.1.1 Low	Formal procedural notes are created in relation to the Development Control Team's current practices. To enhance the audit trail of the process, this should include recording the name of the officer who validates each application	Y	Procedural Notes to follow WG Development Management Manual and the Development Management Procedure (Wales) Order 2012 as amended.  Initials to be inputted against relevant box on the file cover/in DEFSOFT (validation officer)	Development and Building Control Manager, Development Control Team Leader, Principal Planning Officers, Minor Applications Team Leader	January 2022  September 2021
5.1.2 Low	The planning application fees and charges listed on the BCBC website are amended to correct the error identified within the report	Y	Minor Applications Team Leader to change and advise Communications Team/Web Manager.	MAT Team Leader	September 2021
5.1.3 Low	Where possible, efforts should be made to ensure that acknowledgement letters are issued to customers in a timely manner after the application has been validated	Y	Noted and agreed. Some anomalies due to limited resources, no transfer of Administration tasks to Admin Support team and increased work pressures over the last 12-18 months.	MAT Team Leader	Ongoing
5.1.4 Low	The weekly list of planning applications posted online details the date of publication	Y	Date range at the top of the weekly list will still be included but the actual date of release of the list will be added as well.	MAT Team Leader	September 2021
5.1.5	All personal data, such as email addresses, must be redacted prior to publication. Staff are	Y	Officers to redact personal contact details where necessary. Personal email addresses	All DC staff.	September 2021

<b>Medium</b>	reminded only their BCBC email addresses should be used for business purposes. A review is carried out to identify any personal data that has been published that could demonstrate non-compliance to GDPR legislation.		being left on the system likely to be a result of agency staff and delays in obtaining IT equipment.  APMISC to be used in most cases rather than releasing everything as publicly viewable.		
<b>5.1.6</b> <b>Medium</b>	Regular reconciliations from the general ledger to MasterGov should be undertaken to confirm that all payments have been recorded correctly. This should be verified by an officer who is independent of the payment process	Y with comment	We are in the process of arranging a query on the system (DEFSoft and COA Financials/Ledger) with Business Administration Support so that they can take up the role of independent assessor to do this on a monthly basis.	Business Admin	January 2022
<b>5.1.7</b> <b>Low</b>	A formal procedural note is created in relation to refunds. For a full audit trail of the payment activity, all transactions including all duplicate payments and refunds are recorded on MasterGov	Y	Tab on Defsoft to be populated and short guidance note to be prepared.	MAT Team Leader	January 2022
<b>5.2.1</b> <b>Low</b>	A register is created in relation to the declaration of the personal interests of officers	Y	Declaration of interests form to be compiled and added to O:Drive and populated by all Officers.	Development and Building Control Manager and all Officers thereafter.	January 2022
<b>5.2.2</b> <b>Low</b>	For all planning applications determined outside the statutory determination period, an extension is agreed with the customer and documented on file	Y	Acknowledgement Letter to be reworded to forewarn applicants that their applications are unlikely to be determined within the statutory 8 week period but likely to be dealt with within 12 weeks.	MAT Team Leader  All Officers	September 2021

			EoTs to be sent out by Officers to seek agreement from the agent/applicant if the determination date is likely to go beyond 12 weeks.		
<b>5.4.1</b> <b>Medium</b>	Updated procedural notes in relation to planning enforcement are created. The BCBC website is updated with all relevant planning enforcement documentation	Y	<p>Enforcement Guidance Notes to be updated and added to website by Communications Team/Web Page Manager.</p> <p>Updated procedural notes in relation to planning enforcement are created and the BCBC website is updated with all relevant planning enforcement documentation.</p> <p>Register to be shut down until it has been updated going back to August 2020.</p> <p>Online Enforcement Search facility to be renamed "Planning Enforcement Notice Search - Search for planning enforcement notice records" as opposed to "Planning Enforcement Search" which implies all complaints can be viewed.</p>	DC Team Leader, Enforcement Officer and Web Manager	December 2022
<b>5.4.2</b> <b>Low</b>	Where possible, efforts are made to increase the number of planning enforcement cases that are resolved within 12 weeks after the date of the initial complaint	Y	<p>Due to unprecedented levels and numbers of complaints and the lack of resources it has been difficult to resolve all complaints within 12 weeks.</p> <p>Some administrative assistance has been secured in the short term (15 hours a week) from the Council's Business Admin Support Team and another potential Enforcement Officer to be appointed through a restructure.</p>	Development and Building Control Manager, DC Team Leader, Enforcement Officer	Ongoing



<b>5.5.1</b> <b>Low</b>	Members are reminded of their responsibilities detailed within the Planning Code of Practice in relation to training requirements		DC Committee Members to be trained after election.		May 2022
			Reminder to DC Committee members to attend sessions regularly in line with the Code of Practice.		October 2021
			Report for noting on Applications and Appeals Audit Report and findings to be placed on the agenda for next DC Committee meeting.		September 2021

## 7. DEFINITIONS

AUDIT ASSURANCE CATEGORY CODE	
<b>Substantial</b>	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
<b>Reasonable</b>	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
<b>Limited</b>	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of

RECOMMENDATION CATEGORISATION	
	Risk may be viewed as the chance, or probability, of one or more of the organisation's objectives not being met. It refers both to unwanted outcomes which might arise, and to the potential failure to realise desired results. The criticality of each recommendation is as follows:
<b>High Priority</b>	Action that is considered imperative to ensure that the organisation is not exposed to high risks.
<b>Medium Priority</b>	Action that is considered necessary to avoid exposure to significant risks.

	governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
<b>No Assurance</b>	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.

<b>Low Priority</b>	Action that is considered desirable and should result in enhanced control.

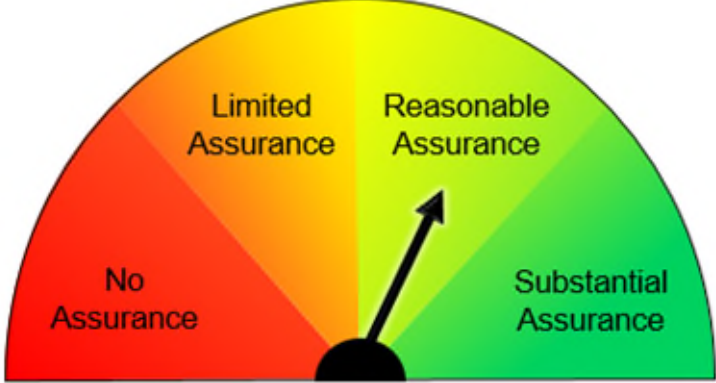
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## Draft Internal Audit Report



### Building Control

2021/22

AUDIT OPINION	RECOMMENDATION SUMMARY	
	<b>High priority</b>	0
	<b>Medium Priority</b>	4
	<b>Low Priority</b>	3
	<b>Total</b>	<b>7</b>

### REASONABLE ASSURANCE

There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.

### STRENGTHS & AREAS FOR IMPROVEMENT

During the audit a number of strengths and areas of good practice were identified as follows:

- The department is pro-active in its efforts to attract new customers and generate income for the Authority
- There was a clear segregation of duties evident within the invoicing process
- There was a full audit trail on file for inspections that had taken place
- The percentage of Full Plan applications processed within the statutory determination period increased during 2020/21

The following key issues were identified during the audit which need to be addressed:

- Departmental procedural notes required updating to reflect current practices
- Decisions made by Officers with regards to applications were not documented
- The financial data input into MasterGov is not currently reconciled to the ledger

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## 1. INTRODUCTION & BACKGROUND

An audit of Building Control was undertaken in accordance with the 2021/22 Internal Audit Plan.

This report sets out the findings of the audit and provides an opinion on the adequacy and effectiveness of internal control, governance and risk management arrangements in place. Where controls are not present or operating satisfactorily, recommendations have been made to allow Management to improve internal control, governance and risk management to ensure the achievement of objectives.

Building regulations exist to ensure the health and safety of people in and around all types of buildings, including domestic, commercial, public and industrial. They also provide for energy conservation, security, and access to buildings.

Building Control is an important fee earning and statutory service offered by the Authority.

## 2. OBJECTIVES & SCOPE OF THE AUDIT

The purpose of the audit is to provide assurance on the adequacy and effectiveness of the internal control, governance and risk management arrangements in respect of Building Control.

Audit testing was undertaken in respect of financial year 2020/21 & 2021/22

The Audit scope included ensuring that the following key controls were in place:

- All applications are promptly administered and all records updated appropriately to ensure a transparent decision making process
- Ensuring on-site inspections have been undertaken as required.
- The processes in relation to the fees charged and income received are robust
- Enforcement action with regards to breaches of building regulation is in line with legislation

## 3. AUDIT APPROACH

Fieldwork will take place following agreement of the audit objectives.

A draft report will be prepared and provided to Management for review and comment with an opportunity given for discussion or clarification.

The final report will incorporate Management comments together with a Management Action Plan for the implementation of recommendations.

Audit Committee will be advised of the outcome of the audit and may receive a copy of the Final Report.

Management will be contacted and asked to provide feedback on the status of each agreed recommendation, once the target date for implementation has been reached.

Any audits concluded with a no assurance or limited assurance opinion will be subject to a follow up audit.

#### 4. ACKNOWLEDGEMENTS

A number of staff gave their time and co-operation during the course of this review. We would like to record our thanks to all of the individuals concerned.

The work undertaken in performing this audit has been conducted in conformance with the Public Sector Internal Audit Standards.

The findings and opinion contained within this report are based on sample testing undertaken. Absolute assurance regarding the internal control, governance and risk management arrangements cannot be provided given the limited time to undertake the audit. Responsibility for internal control, governance, risk management and the prevention and detection of fraud lies with Management and the organisation.

Any enquires regarding the disclosure or re-issue of this document to third parties should be sent to the Head of the Regional Internal Audit Service via [mark.thomas@bridgend.gov.uk](mailto:mark.thomas@bridgend.gov.uk)

## 5. FINDINGS & RECOMMENDATIONS

### 5.1 APPLICATION PROCESS

**Control Objective: All applications are promptly administered and records are maintained to ensure a transparent decision making process**

**Strengths:**

The Auditor reviewed the literature available to the public via the BCBC website and noted that, along with the links to additional information within the Building Portal, the guidance on Building Control applications and the associated fees was detailed and clear.

The statutory determination period for a local authority to issue a decision on a Full Plan application is 5 weeks (or 8 weeks if consent is obtained from the applicant). Using reports produced from MasterGov, the Auditor analysed the department's performance in relation to these timescales over the past 2 financial years:

Decisions issued	2019/20	2020/2021
Under 3 weeks	70%	76%
Between 3 - 5 weeks	14%	12%
Between 5 – 8 weeks	8%	7%
Over 8 weeks	8%	5%

The above indicates that despite the difficulties experienced within the department during 2020/21, with the introduction of legislative restrictions and remote working, the performance in relation to these standards has slightly increased

Full details of inspections (name of officer, inspection date, report comments, decision) can be recorded on the 'Work Items' tab within MasterGov. For the same sample referenced in 5.1.2, the Auditor reviewed each application and noted that (where work had commenced) there were full details recorded on MasterGov of each inspection that had taken place.



Ref. & Priority	Finding / Weakness	Risk	Recommendation
<b>5.1.1</b>  <b>Medium</b>	<p>The Auditors were provided with the most recent procedural notes. It was noted that although they were detailed, they had not been updated since 2012 and given that the MasterGov system had been implemented since then, they did not reflect current working practices within the department.</p>	<p>Staff unaware of their responsibilities; applications processed in an inconsistent manner and/or delayed unnecessarily</p>	<p>Updated procedural notes are created for all current working practices within Building Control including:</p> <ul style="list-style-type: none"> <li>• Application and decision making processes</li> <li>• Disabled Person exemption award</li> <li>• Enforcement action</li> </ul>
<b>5.1.2</b>  <b>Low</b>	<p>Using data from MasterGov, the Auditor reviewed the Full Plan applications and filtered those that were decided within the 6 month period between January and June 2021. The EDRM system was also reviewed to check the documentation on file for each application.</p> <p>It was noted that out of the 181 applications:</p> <ul style="list-style-type: none"> <li>• 93% were decided within the mandatory 5 week determination period</li> <li>• 7% were decided after 5 weeks</li> </ul> <p>For the 13 (7%) of the decisions that were made outside the 5 week mandatory determination period, the Auditor reviewed the documentation on file to see if there was consent on file from the customer:</p> <ul style="list-style-type: none"> <li>• 5 / 13 had confirmation within the original application form that the</li> </ul>	<p>No audit trail; applications delayed unnecessarily; reputational damage to Authority</p>	<p>When processing applications:</p> <ul style="list-style-type: none"> <li>• Consent from customers to extend mandatory determination period is obtained and documented in all appropriate cases</li> <li>• Only applications completed using the standard BCBC application form are accepted and processed</li> <li>• All application forms are date stamped upon receipt</li> <li>• All applications are acknowledged formally upon receipt</li> </ul>

Ref. & Priority	Finding / Weakness	Risk	Recommendation
	<p>customer had provided consent to extend the mandatory determination period</p> <ul style="list-style-type: none"> <li>8 / 13 had no documentation on file confirming that the customer had provided consent to extend the mandatory determination period</li> </ul> <p>It was noted, however, that in 6 / 8 cases identified, the Building Control Assistant had completed the application of behalf of the customer and in these circumstances, it was advised that the customer would always be asked for consent to extend the 5 week period.</p> <p>The Auditor chose a 25% (45) of the sample (181) of to review further. It was noted that:</p> <ul style="list-style-type: none"> <li>42 / 45 cases had a completed BCBC Building Control application form on file</li> <li>2 / 45 cases had a custom application form created by the customer on file</li> <li>1 / 45 cases had no application on file</li> </ul> <p>After this was queried by the Auditor, the missing planning application was located and uploaded onto EDRM.</p> <p>The Auditor was able to ascertain when the application was originally received by the</p>		

Ref. & Priority	Finding / Weakness	Risk	Recommendation
	<p>department for cases received directly via the Portal or those completed over the telephone by the Building Control Assistant (26 / 45). For those that had been received via post (19 / 45), there was no date stamp used (electronic or physical), so the Auditor was unable to identify the correct date of receipt.</p> <p>With regards to the same sample, it was noted that:</p> <ul style="list-style-type: none"> <li>• 37 / 45 cases had evidence on file showing that an acknowledgement letter sent to the customer advising that their application was under consideration</li> <li>• 8 / 45 had no evidence on file that an acknowledgement letter was issued</li> </ul> <p>Apart from the individual documents highlighted above, it was noted that there was a full audit trail of each application and the relevant correspondence within the MasterGov and EDRM systems.</p>		
<p><b>5.1.3</b> <b>Medium</b></p>	<p>The Auditor was advised that the current authorisation process is as follows:</p> <ul style="list-style-type: none"> <li>• Building Control Officers pass their application decision to the Building</li> </ul>	<p>Unauthorised decisions being made; incorrect information given to applicant</p>	<p>Decisions made by both Building Control Officers and the Development Control Manager in relation to applications are recorded and retained on file</p>

Ref. & Priority	Finding / Weakness	Risk	Recommendation
	<p>Control Assistant who will then create the decision notice on MasterGov.</p> <ul style="list-style-type: none"> <li>The Development Control Manager reviews and authorises each application decision prior to the notice being issued to the customer.</li> </ul> <p>It was demonstrated to the Auditor that this was done via email and no record is made within MasterGov or EDRM.</p> <p>The Auditor was unable to carry out testing due to insufficient information available within the relevant systems used. In order to ensure a full audit trail of the authorisation process, and to evidence that a segregation of duties was in place for each application processed, decisions made by both Building Control Officers and the Development Control Manager should be recorded and retained on file along with other documentation relevant to the application.</p>		

5.2 FEES & CHARGES			
Control Objective: The processes followed by Building Control in relation to the fees charged and income received are robust			
	<p><b>Strengths:</b></p> <p>The full range of Building Control fees and charges can be easily located on the BCBC website.</p> <p>The Auditor chose a sample of 50 successful planning applications for the 6 month period between December 2020 and May 2021. It was noted that in all cases, the decision notice issued to each customer detailed information advertising the services of the Building Control Section.</p> <p>In addition, the Building Control section are regularly provided by Development Control with the lists of new planning applications. The lists are reviewed for any potential new customers that have not previously used the Authority's services. The Auditor viewed evidence where potential customers had been sent letters that detailed:</p> <ul style="list-style-type: none"> <li>• An offer of a free submission advice report</li> <li>• A blank application form</li> <li>• A list of fees and charges</li> </ul> <p>This demonstrates that the department is pro-active in its efforts to attract new customers and generate income for the Authority.</p> <p>The Auditor selected 50 Building Control Inspector Fee invoices in relation to payments received within the 6 month period between January – June 2021. COA was reviewed to determine who raised the invoice and who authorised. It was noted that a clear segregation of duties was evident within the process for all invoices raised.</p>		
Ref. & Priority	Finding / Weakness	Risk	Recommendation
5.2.1  Low	The Auditor viewed evidence that the fees and charges were reviewed in 2018 and a comparison with Pembrokeshire Council was carried out prior to the decision to increase the fees by 5%. The increase was approved by full Council on 28/02/2018.	Loss of trade; Unfair fees levied by Authority charged; reputational damage	A review of Building Control fees and charges is carried out and any increase is approved at the appropriate level. Regular comparison exercises with other local authorities should be carried out to ensure that charges remain competitive

Ref. & Priority	Finding / Weakness	Risk	Recommendation
	<p>The Medium Term Financial Strategy 2021/22 – 2024/25 ‘Fees &amp; Charges’ Appendix E states that a review of Building Control fees is due in 2021/22 where it was “<i>likely to be 2% increase to reflect current market conditions</i>”.</p> <p>As yet no review or price increase has been undertaken in 2021/22</p> <p>The Auditor carried out an exercise that compared the Authority’s Building Control fees to 5 other Local Authorities of a similar population size. It was determined that the Authority’s overall charges were 4% lower than the total average of the other authorities reviewed. Regular comparison exercises should be carried out to ensure that the fees charged remain competitive.</p>		
<p><b>5.2.2</b> <b>Medium</b></p>	<p>Using the same sample of Full Plan Applications reference in 5.1.2, it was noted that:</p> <ul style="list-style-type: none"> <li>• 40 / 45 applications had the correct fee charged on MasterGov</li> <li>• 0 / 5 did not have any charges applied</li> </ul> <p>It was confirmed that in 1/ 5 of these cases, the fees had not been applied in error and was corrected during the review.</p> <p>The Auditor identified that 4 / 5 had been awarded an exemption from the charge on the</p>	<p>Unfair fees levied by Authority charged; reputational damage</p>	<p>See Report Ref 5.1.1.</p>

Ref. & Priority	Finding / Weakness	Risk	Recommendation
	<p>grounds that the applicant was disabled. It was advised that in these cases, an exemption would be awarded on receipt of:</p> <ul style="list-style-type: none"> <li>• A letter from an Occupational Therapist or Doctor confirming that the adaption is required in relation to the customer's disability</li> <li>• Confirmation from Bridgend County Care and Repair that the adaptation is required</li> </ul> <p>The Auditor identified documentation on EDRM in relation to only 1 / 4 cases confirming that the applicant qualified for the exemption under the criteria listed above. Additional documentation was obtained and uploaded onto EDRM in relation to 1 other case and queries were ongoing at the time of the review in relation to the other 2.</p> <p>Normal practice was noted to be that: exemption is awarded from the initial Plan fee upon receipt of the application and then verification of the exemption is pursued prior to the inspection at the property.</p> <p>The Auditor felt that given the applicant is issued with the initial acknowledgment letter confirming the exemption has already been awarded without verification of the customer's disabled status, there is a potential risk that this could</p>		

Ref. & Priority	Finding / Weakness	Risk	Recommendation
	<p>undermine the ability of the Authority to achieve successful resolution of any potential disputes that may arise. It is recommended, that a procedural note is created specifically for disabled persons exemption and include that verification of an applicant's disabled status is established prior to awarding any exemption from the charge.</p>		
<p><b>5.2.3</b> <b>Medium</b></p>	<p>The Auditor noted that Building Control income for 2020/21 on the ledger totalled £214,973, which was a 4.9% decrease from the previous year (£226,102). Further analysis showed that this can primarily be attributed to the 19.6% (£18,530) decrease in inspection fees that was lost due to the legislative restrictions introduced during the year.</p> <p>Only debit/credit card payments over the telephone have been taken since the introduction of remote working. The Building Control Assistant take the payment using Paye.net and then manually inputs the details onto the MasterGov system against the corresponding application reference.</p> <p>The Auditor selected the month of May 2021 and compared the income data input on MasterGov to the income recorded on the general ledger. Out of 52 transactions totalling £11,309.03 from the ledger, the Auditors were able to reconcile :</p>	<p>Inability to confirm receipt of income; Monies received could be unidentified and misappropriated</p>	<p>Regular reconciliations from the general ledger to MasterGov should be undertaken to confirm that all payments have been recorded correctly. This should be verified by an officer who is independent of the payment process</p>



Ref. & Priority	Finding / Weakness	Risk	Recommendation
	<ul style="list-style-type: none"> <li>51 transactions totalling £11,114.86 back to MasterGov</li> </ul> <p>The Auditor identified that only the card payment reference and not the actual amount had been recorded in MasterGov for 1 payment received for £194.17. In addition, the card payment references recorded on MasterGov for 3 transactions were incorrect. The Auditor was however able to trace the payments to ledger using copies of the receipts that had been uploaded onto EDRM</p> <p>Given that certain risks are associated with manually inputting payment information onto a system, such as human error or potential misuse, regular reconciliations from general ledger to MasterGov should be undertaken to confirm that all payments have been recorded correctly. In addition, to ensure that a segregation of duties is present within the process, the reconciliation should be verified by an officer independent of those who are responsible for taking and recording payments.</p>		
<b>5.2.4</b>  <b>Low</b>	<p>The Auditor chose a sample of 50 Building Applications where there had been a Plan fee received during the period between April and June 2020.</p>	<p>Customer unable to confirm if VAT has been charged; non-compliance with HMRC guidelines; reputational damage</p>	<p>VAT receipts are issued to all customers and a record is retained on file</p>

Ref. & Priority	Finding / Weakness	Risk	Recommendation
	<p>EDRM was reviewed to ensure that there was an audit trail showing that a valid VAT receipt had been issued in each case. It was noted:</p> <ul style="list-style-type: none"> <li>• 40 / 50 had documentation on file confirming that a valid VAT receipt had been issued to the customer</li> <li>• 10 / 50 there was no evidence on file that a valid VAT receipt had been issued</li> </ul>		

### 5.3 BUILDING REGULATION BREACHES

**Control Objective: The processes followed by Building Control in relation to breaches of building regulations is robust and enforcement action is in line with legislation**

**Strengths:**

There is clear guidance detailed within the BCBC website on the channels available to the public to report a breach of building regulation. Examples of good practice were identified where a 'soft' enforcement letter was issued in efforts to engage the customer prior to formal enforcement action, such a Section 35 Notice.

Ref. & Priority	Finding / Weakness	Risk	Recommendation
5.3.1 Medium	A departmental procedural note was provided in relation to this area, but as referenced earlier in the report, this was also from 2012 and needed updating in line with all procedural notes.	Staff unaware of their responsibilities; enforcement action taken in an inconsistent manner and/or delayed unnecessarily	See Report Ref 5.1.1

Ref. & Priority	Finding / Weakness	Risk	Recommendation
<b>5.3.2</b>  <b>Medium</b>	<p>It was identified that 8 cases of 'Unauthorised Work' had been recorded on MasterGov since 01/04/2020. After a review of each case, in conjunction with EDRM, observations were made by the Auditor:</p> <ul style="list-style-type: none"> <li>• 4 / 8 were ongoing cases currently being investigated</li> <li>• 1 case was closed due to the submission of a Building Control application</li> <li>• 3/8 the Auditor was unable to determine the status based on the information available</li> </ul> <p>In addition, the Auditor was unable to locate evidence of the original complaint received by the department, or any documentation on EDRM under the appropriate reference number, for any of the 8 cases. Further efforts could be made to utilise the systems in place to enhance the audit trail of all enforcement action taken.</p>	<p>No audit trail; decisions made by Authority are open to challenge; inability to achieve resolution of any potential disputes that may arise</p>	<p>A full audit trail of all enforcement action taken and decisions made is recorded within MasterGov/EDRM</p>

## 6. MANAGEMENT ACTION PLAN

Report Ref & Priority	Recommendation	Agreed (Y/N)	Management Comments	Job Title of Officer Responsible	Date to be Implemented
5.1.1 Medium	<p>Updated procedural notes are created for all current working practices within Building Control, including:</p> <ul style="list-style-type: none"> <li>• Application and decision making processes</li> <li>• Disabled Person Exemption award</li> <li>• Enforcement action</li> </ul>	Y	<p>Agreed - Guidance notes for new starters/apprentices to be updated (and reviewed annually) to take into account our current ways of working. Original 2012 version to be sourced from MM.</p> <p>Exemption letters to be secured upfront rather than during the process.</p>	Team Leader – Building Control	November 2021
5.1.2 Low	<p>When processing applications:</p> <ul style="list-style-type: none"> <li>• Consent from customers to extend mandatory determination period is obtained and documented in all appropriate cases</li> <li>• Only applications completed using the standard BCBC application form are accepted and processed</li> <li>• All application forms are date stamped upon receipt</li> <li>• All applications are acknowledged formally upon receipt</li> </ul>	Y	<p>EoT consent to be sought and documented.</p> <p>Whilst the BC team cannot force applicants to use the standard application form, it will be encouraged/promoted.</p> <p>All entries/applications over the phone will document agreement for EoT (inputted into 'Notes' tab), all application forms will be date stamped and placed on the system even if there's no fee to formally register and all applications will be acknowledged.</p>	Team Leader BC, Building Control Assistant and Technical Support Officer	September 2021
5.1.3 Medium	<p>Decisions made by both Building Control Officers and the Development Control Manager* in relation to applications are recorded and retained on file</p>	Y	<p>(n.b. *Reference should be Building Control Team Leader not Development Control Manager)</p> <p>Decisions and emails will be saved into Defsoft to show decision/audit trail.</p>	Team Leader BC, Building Control Assistant and Technical Support Officer	September 2021

<b>5.2.1</b>  <b>Low</b>	A review of Building Control fees and charges is carried out and any increase is approved at the appropriate level. Regular comparison exercises with other local authorities should be carried out to ensure that charges remain competitive	Y	Comparisons to be undertaken annually and 2% increase factored in for next financial year (2022/2023) already.  Spreadsheet for all Council's in Wales to be set up and updated every April using details of fees on their websites.  Regularisation fees to be reviewed as well to dissuade customers from avoiding applying at the start of the process.	Team Leader BC, Building Control Assistant and Technical Support Officer	March/April 2022 and every year thereafter
<b>5.2.3</b>  <b>Medium</b>	Regular reconciliations from the general ledger to MasterGov should be undertaken to confirm that all payments have been recorded correctly. This should be verified by an officer who is independent of the payment process	Y in principle	We are in the process of arranging a query on the system (DEFSoft and COA Financials/Ledger) with Business Administration Support so that they can take up the role of independent assessor to do this on a monthly basis.	Business Admin Support Team in conjunction with Building Control Assistant	From Jan 2022 and then every month
<b>5.2.4</b>  <b>Low</b>	VAT receipts are issued to all customers and a record is retained on file	Y	Some types of applications are VAT exempt. e.g. in house applications? Inter-departmental charging?  All others where VAT is applicable will be the subject of a receipt issued to the applicant and will be recorded and saved to the file on the system.	Building Control Assistant and Technical Support Officer	September 2021
<b>5.3.2</b>  <b>Medium</b>	A full audit trail of all enforcement action taken and decisions made is recorded within MasterGov/EDRM	Y	Addresses/cases to be identified and records updated	Building Control Assistant and Technical Support Officer	September 2021

## 7. DEFINITIONS

AUDIT ASSURANCE CATEGORY CODE	
<b>Substantial</b>	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
<b>Reasonable</b>	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
<b>Limited</b>	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
<b>No Assurance</b>	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.

RECOMMENDATION CATEGORISATION	
	Risk may be viewed as the chance, or probability, of one or more of the organisation's objectives not being met. It refers both to unwanted outcomes which might arise, and to the potential failure to realise desired results. The criticality of each recommendation is as follows:
<b>High Priority</b>	Action that is considered imperative to ensure that the organisation is not exposed to high risks.
<b>Medium Priority</b>	Action that is considered necessary to avoid exposure to significant risks.
<b>Low Priority</b>	Action that is considered desirable and should result in enhanced control.

## **TRAINING LOG**

*All training sessions will be held on the Microsoft Teams platform.*

<b><u>Subject</u></b>	<b><u>Date</u></b>
Planning Committee Protocol and Appeals Procedures	29 September 2021
Green infrastructure	27 October 2021
Minerals update	8 December 2021

(Members are reminded that the Planning Code of Practice, at paragraph 3.4, advises that you should attend a minimum of 75% of the training arranged).

### **Recommendation:**

That the report of the Corporate Director Communities be noted.

**JANINE NIGHTINGALE  
CORPORATE DIRECTOR COMMUNITIES**

### **BACKGROUND PAPERS**

None

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