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Bridgend County Borough Council



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*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.*



Gwasanaethau Gweithredol a Phartneriaethol / Operational and Partnership Services

Deialu uniongyrchol / Direct line /: 01656 643148 /
643147

Gofynnwch am / Ask for: Mr Mark Anthony Galvin

Ein cyf / Our ref:

Eich cyf / Your ref:

Dyddiad/Date: Friday, 20 April 2018

Dear Councillor,

DEVELOPMENT CONTROL COMMITTEE

A meeting of the Development Control Committee will be held in the Council Chamber, Civic Offices, Angel Street, Bridgend, CF31 4WB on **Thursday, 26 April 2018 at 10:00.**

AGENDA

1. Apologies for Absence
To receive apologies for absence from Members.
2. Declarations of Interest
To receive declarations of personal and prejudicial interest (if any) from Members/Officers including those who are also Town and Community Councillors, in accordance with the provisions of the Members' Code of Conduct adopted by Council from 1 September 2008. Members having such dual roles should declare a personal interest in respect of their membership of such Town/Community Council and a prejudicial interest if they have taken part in the consideration of an item at that Town/Community Council contained in the Officer's Reports below.
3. Site Visits
To confirm a date of Wednesday 06/06/2018 for proposed site inspections arising at the meeting, or identified in advance of the next Committee meeting by the Chairperson.
4. Approval of Minutes 3 - 8
To receive for approval the minutes of the 15/03/18
5. Public Speakers
To advise Members of the names of the public speakers listed to speak at today's meeting (if any).
6. Amendment Sheet
That the Chairperson accepts the Development Control Committee Amendment Sheet as an urgent item in accordance with Part 4 (paragraph 4) of the Council Procedure Rules, in order to allow for Committee to consider necessary modifications to the Committee Report, so as to take account of late representations and revisions that require to be accommodated.

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7.	<u>Development Control Committee Guidance</u>	9 - 12
8.	<u>P/17/1073/FUL - Land off All Saints Way Penyfai CF31 4BT</u>	13 - 34
9.	<u>P/17/910/FUL - Adjacent to 1 Danygraig Avenue Porthcawl CF36 5AA</u>	35 - 46
10.	<u>P/17/816/FUL - Pyle Garden Centre 2 Heol Mostyn Pyle CF33 6BJ</u>	47 - 58
11.	<u>Appeals</u>	59 - 84
12.	<u>Training Log</u>	85 - 86
13.	<u>Urgent Items</u> To consider any other item(s) of business in respect of which notice has been given in accordance with Part 4 (paragraph 4) of the Council Procedure Rules and which the person presiding at the meeting is of the opinion should by reason of special circumstances be transacted at the meeting as a matter of urgency.	

Yours faithfully

P A Jolley

Corporate Director Operational and Partnership Services

Councillors:

TH Beedle
JPD Blundell
NA Burnett
RJ Collins
SK Dendy
MJ Kearn

Councillors

DRW Lewis
JE Lewis
RMI Shaw
JC Spanswick
RME Stirman
G Thomas

Councillors

T Thomas
JH Tildesley MBE
MC Voisey
KJ Watts
CA Webster
AJ Williams

DEVELOPMENT CONTROL COMMITTEE - THURSDAY, 15 MARCH 2018

MINUTES OF A MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD IN COUNCIL CHAMBER - CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON THURSDAY, 15 MARCH 2018 AT 10:00

Present

Councillor G Thomas – Chairperson

JPD Blundell
DRW Lewis
T Thomas
AJ Williams

NA Burnett
JE Lewis
JH Tildesley MBE

RJ Collins
RMI Shaw
KJ Watts

MJ Kearn
RME Stirman
CA Webster

Apologies for Absence

TH Beedle, SK Dendy, JC Spanswick and MC Voisey

Officers:

Craig Flower	Planning Support Team Leader
Tony Godsall	Traffic & Transportation Manager
Claire Hamm	Conservation and Design Team Leader
Rod Jones	Senior Lawyer
Robert Morgan	Senior Development Control Officer
Jonathan Parsons	Group Manager Development
Michael Pitman	Business & Administrative Apprentice
Andrew Rees	Senior Democratic Services Officer - Committees
Kevin Stephens	Democratic Services Assistant
Philip Thomas	Principal Planning Officer
Leigh Tuck	Senior Development Control Officer
Elizabeth Woolley	Senior Planning Officer

92. DECLARATIONS OF INTEREST

The following declaration of interest was made:

Councillor T Thomas – Prejudicial interest in agenda item 8 - Planning application P/16/366/OUT as he had objected to this application prior to becoming a Councillor and a member of this Committee. Councillor Thomas also declared that he is a member of Ynysawdre Community Council but takes no part in the consideration of planning matters.

93. SITE VISITS

RESOLVED: That a date of Wednesday 25 April 2018 be confirmed for proposed site inspections arising at the meeting or identified in advance of the next Committee meeting by the Chairperson.

94. APPROVAL OF MINUTES

RESOLVED: That the Minutes of the meeting of the Development Control Committee of 1 February 2018, be approved as a true and accurate record.

95. PUBLIC SPEAKERS

The following public speakers were listed to speak at the meeting:-

<u>Planning Application No.</u>	<u>Speaker</u>
P/16/366/OUT	Councillor T Thomas (Objector)
P/16/366/OUT	Councillor J Radcliffe (Objector)
P/16/366/OUT	Councillor G Haines (Newcastle Higher Community Council - Objector)
P/16/366/OUT	Mrs C Evans (Objector)
P/16/366/OUT	Mr V Zarifian (on behalf of the applicant)

96. AMENDMENT SHEET

RESOLVED: That the Chairperson accepted the Development Control Committee Amendment Sheet as an urgent item in accordance with Part 4 (paragraph 4) of the Council Procedure Rules, in order to allow for the Committee to consider necessary modifications to the Committee report, so as to take account of late representations and revisions that are required to be accommodated.

97. P/16/366/OUT - LAND WEST OF MAESTEG ROAD, TONDU

RESOLVED: (1) That having regard to the following application, the applicant enters into a Section 106 Agreement subject to conditions contained in the report of the Corporate Director Communities

Proposal

450 dwellings, 1000 sq.m. Class B1 use, highway works, public open space

(2) That the Corporate Director Communities be given delegated powers to issue a decision notice granting outline consent in respect of this proposal once the applicant has entered into the aforementioned S106 Agreement, subject to the standard outline conditions and the additional conditions contained in the report and the following amendments/additions to the planning conditions 3 and 22 and heads of terms of the S106 Obligation contained in the Amendment Sheet:

TRAFFIC AND TRANSPORTATION

Provide an area of car parking to the north west of the Waste Transfer Station in lieu of the existing temporary car park that will be developed as part of the application. Details of the car parking scheme and its future management will be agreed by the Local Planning Authority and as part of this obligation.

3. The mitigation measures set out in the documents listed below shall be carried out as prescribed in the documents:

DEVELOPMENT CONTROL COMMITTEE - THURSDAY, 15 MARCH 2018

a) Sections 7.0, 8.0, 9.0 10.0 and 11.0 in the Desk Study & Coal Mining Risk Assessment Report Tondu – Rev A April 2016 provided by Integral Geotechnique

b) Section 6.0 Conclusions and Recommendations in the Level 2 Survey Report Final As Issued 2016-03-10 provided by Soltys Brewster Ecology

c) Section 6 - Recommendations in the Tree Survey, Categorisation and Constraints Report by Steve Ambler and Sons Tree Specialist Ltd dated 20 February 2016.

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

22. Prior to the development on any phase, a detailed lighting strategy for that phase shall be submitted to and approved in writing by the Local Planning Authority. The lighting plans shall be implemented as approved.

Reason: To maintain and improve the appearance of the area in the interests of visual amenity and to promote nature conservation.

98. P/17/1078/FUL - GARAGE COMPOUND, HEOL YR AFON / TREFELIN, WILDMILL

RESOLVED: That the following application be granted subject to the Conditions contained in the report of the Corporate Director Communities:-

Proposal

Demolish garages and create a site compound for Wildmill Phase 2 works

99. P/17/554/RLX - LAND AT MOOR LANE, PORTHCAWL

RESOLVED: That the following application be granted subject to the Conditions contained in the report of the Corporate Director Communities:-

Proposal

Variation of condition 2 of P/16/497/FUL relating to occupancy of chalets

100. P/17/1083/FUL - BRIDGEND GRID 132KW SUBSTATION, OFF GREAT WESTERN AVENUE, BRIDGEND

RESOLVED: (1) That the application be referred to Council as a proposal that is a departure from the Development Plan that the Development Control Committee is not disposed to refuse as the development forms part of urgent improvements to the existing grid electricity substation off Great Western Avenue serving Bridgend which will not have a significant impact on the Regeneration and Mixed Use Development Site as

allocated under Policies PLA(3), COM1(4) and PLA7(21) of the LDP;

- (2) That if Council resolve to approve the proposal, the conditions contained in the report of the Corporate Director Communities be attached to the consent.

Proposal

Extension to existing 132kV grid substation to accommodate new 33/132kV switchroom building; 2.4m high steel palisade security fencing with 3.6m electric fencing behind; internal access road & gravelled surface

101. PROPOSED DESIGNATION OF PRESWYLFA COURT CONSERVATION AREA AND ARTICLE 4 DIRECTIONS

The Conservation and Design Team Leader reported on a proposal to designate Preswylfa Court as a Conservation Area, taking into account feedback from consultation with owners and residents. She also outlined proposed additional controls over permitted development within the Conservation Area by the serving of Article 4(1) and 4(2) Directions and includes a draft design guide to assist owners and occupiers.

She reported that the buildings which formed part of the original Preswylfa Children's Home or "Cottage Homes", date from between 1880 and 1902 and were listed Grade II in 1997. She informed the Committee that during the 1990s, the site was the subject of a sensitive redevelopment scheme which preserved the character of the 13 Listed Buildings around the central green, whilst enabling a sensitive infill housing development, intermittently dispersed between the historic buildings. The design and materials of the new development were carefully controlled at that time through the planning process to avoid any harm to the setting of the Listed Buildings and the historic character of the area.

She stated that officers have received an increasing number of enquiries and concerns relating to minor alterations, particularly to the unlisted buildings within Preswylfa Court, which was attributed to changes in property ownership and the need for ongoing maintenance and repairs to properties. Whilst alterations, extensions and demolition to the Listed

Buildings can be controlled; alterations to the more recent infill properties were currently classed as permitted development and are outside of the control of the Local Planning Authority. These incremental changes have started to have a negative effect on the character of the area and without controls being introduced, there is a real risk of the area becoming so materially affected that the value of the built heritage could be irretrievably lost.

The Conservation and Design Team Leader reported that the need for an assessment of the Preswylfa Court area for potential Conservation Area status was identified in the Council's previously adopted Unitary Development this Committee was advised of the outcome of the assessment at a previous meeting on 6 July 2017. At that meeting, the Committee agreed for Officers to consult with the residents/owners of Preswylfa Court concerning designating the area as a Conservation Area.

The Conservation and Design Team Leader reported that two consultation events / exhibitions were held and the majority of the residents who attended supported the proposal to designate the Conservation Area and agreed that additional controls were

needed. She stated that residents were particularly concerned with preserving the character of the original Listed Buildings and the central open green space around which the houses are located. Residents were also keen to receive some design guidance in order to refer to in the future.

The Conservation and Design Team Leader informed the Committee of a proposal to make a Direction under Article 4(1) for the flats as they do not under planning legislation enjoy Permitted Development rights. It was also proposed to make an Article 4(2) for domestic buildings as property owners of non-listed properties currently have permitted development rights.

RESOLVED: That the Committee:

- Approved the proposed boundary in Appendix 1A of the report for the proposed Preswylfa Court Conservation Area;
- Agreed that a Direction be made under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 to remove permitted development rights from those owners and occupiers of flats contained within the proposed Preswylfa Court Conservation Area under the terms set out in Appendix 2 of the report;
- Agreed that a Direction be made under Article 4(2) of the Town and Country Planning (General Permitted Development) Order 1995 to remove permitted development rights from those owners and occupiers of dwelling houses contained within the proposed Preswylfa Court Conservation Area, under the terms set out in Appendix 3 of the report;
- Agreed that Officers be authorised to liaise as necessary with the Welsh Government in respect of the Article 4(1) Direction;
- Agreed that Members receive a further report which will present any representations received as a result of serving the Article 4(1) and Article 4(2) Directions.

102. **REPORT OUTLINING THE LPAS RESPONSE TO THE LAW COMMISSION'S CONSULTATION ON THE CODIFICATION OF PLANNING LAW IN WALES**

The Development and Building Control Manager reported that the Welsh Government is preparing a new Planning Code, which incorporates almost all of the Town and Country Planning 1990 Act and many of the other subsequent Acts that added to and amended the 1990 Act.

He informed the Committee that the Law Commission is working on technical reforms to simplify and improve how the system works in practice and he outlined the response of the Local Planning Authority to the consultation. He stated that the responses to the consultation are being analysed by the Law Commission, who will produce a final report to the Welsh Government, which will inform the production of the new Planning Code, which was expected to receive Royal Assent in 2020.

RESOLVED: That the content of the report and the Local Planning Authority's response to the consultation be noted.

103. REPORT NOTIFYING MEMBERS OF THE WELSH GOVERNMENT'S CONSULTATION ON THE DRAFT PLANNING POLICY WALES (EDITION 10)

The Group Manager Development reported that the Welsh Government is proposing to revise Planning Policy Wales in light of the Wellbeing of Future Generations (Wales) Act 2015.

He informed the Committee that Planning Policy Wales had been re-structured into policy themes around the wellbeing goals and updated to reflect new Welsh Government strategies and policies. He stated that the consultation sought views on the new structure of Planning Policy Wales, the concept of place making and the new revised policy requirements. The consultation paper outlines the changes and should be read in conjunction with the draft PPW – Edition 10.

RESOLVED: That the content of the report and Draft Planning Policy Wales (Edition 10) be noted.

104. APPEALS

The Group Manager Development reported on appeals which had been decided since the last meeting of the Committee.

RESOLVED: (1) That the Inspector appointed by the Welsh Ministers to determine the following Appeal, has directed that the appeal BE DISMISSED and the enforcement notice be upheld subject to corrections and variations:

<u>Code No.</u>	<u>Subject of Appeal</u>
C/17/3180422 (1812)	Unauthorised storage of rubble Land north of Newmarket Works, Wyndham Street, Ogmere Vale

(2) That the Inspector appointed by Welsh Ministers to determine the following Appeal, has directed that the following Appeal be ALLOWED SUBJECT TO CONDITIONS:

<u>Code No.</u>	<u>Subject of Appeal</u>
D/17/3190308 (1819)	Part 2 Storey, part single storey rear extension & development of existing garage into garden room 81 Ewenny Road, Bridgend

(3) That the Inspector appointed by the Welsh Ministers to determine the following Appeal, has directed that the APPEALS BE DISMISSED:

<u>Code No.</u>	<u>Subject of Appeal</u>
D/17/3190447 (1820)	Refurbishment of existing dwelling, new entrance porch, raise height of roof to accommodate loft conversion / second floor, vehicle parking Maesgwyn House, 63 Blackmill Road, Bryncethin

105. TRAINING LOG

The Group Manager Development reported on an updated training log.

RESOLVED: That the report of the Corporate Director Communities be noted.

106. URGENT ITEMS

There were no urgent items.

The meeting closed at 13:25

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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
- 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/17/1073/FUL

APPLICANT: Morganstone Ltd & Pennant Homes Ltd Morganstone House, Unit 3, Llys Aur, Llanelli Gate, Llanelli, SA14 8LQ

LOCATION: Land off All Saints Way Penyfai CF31 4BT

PROPOSAL: Residential development of 20no. dwellings including 3no. affordable dwellings plus access, car parking, open space, landscaping, drainage and associated engineering works

RECEIVED: 20 December 2017

SITE INSPECTED: 16 January 2018

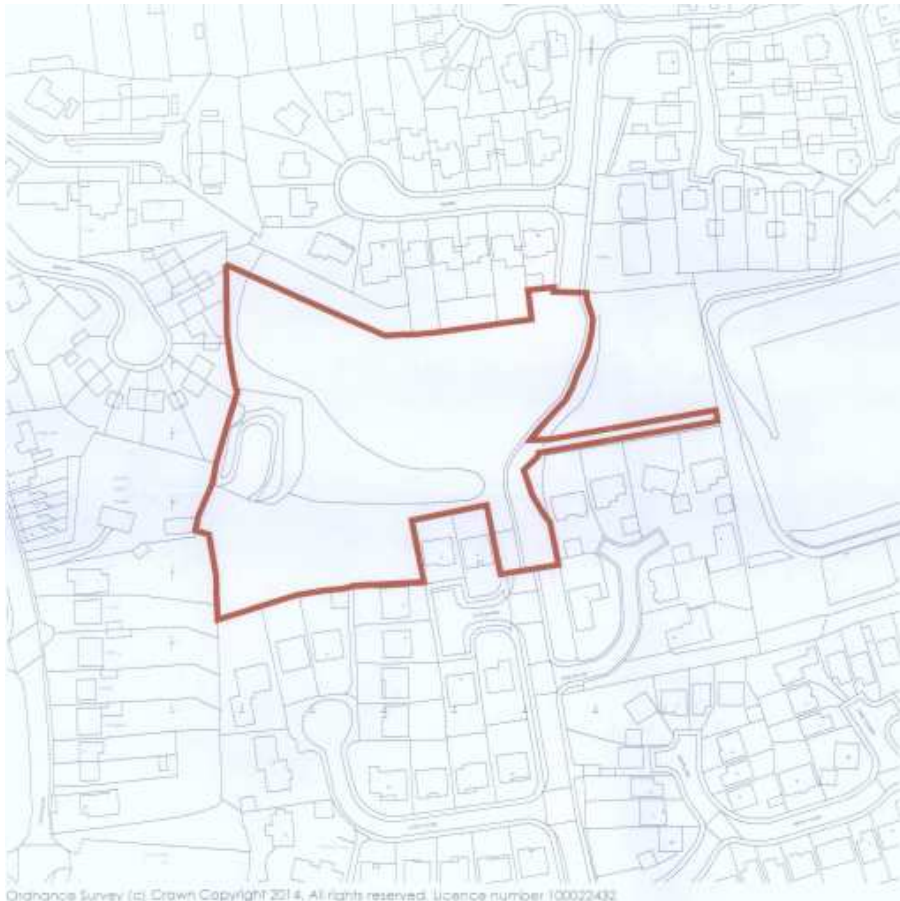
EOT AGREED: 1st May 2018

APPLICATION/SITE DESCRIPTION

The application seeks full planning permission for the proposed residential development of 20 no. dwellings including 3 no. affordable dwellings plus access, car parking, open space, landscaping, drainage and associated engineering works at Land south of All Saints Way, Pen Y Fai, Bridgend.

The site is approximately 1.14 hectares (2.8 acres) and comprises of an area of vegetated sloping scrub and woodland, within an established residential area. The site is currently vacant and in the ownership of Bridgend County Borough Council. The western side of the site includes a small quarried area and the site is subject to part Himalayan balsam colonisation with no protected trees present on the site.

Site Location Plan:



Application Number

P/17/1073/FUL



Scale 1:1,750

Date Issued:
20/04/2018

Development-Mapping
Tel: 01656 643176

Mark Shephard

Corporate Director-Communities

Communities Directorate,
Bridgend County Borough
Council, Civic Offices,
Angel Street,
Bridgend CF31 4WB.

O/Drive/Plandraw/new MI layouts/
Committee DC Plan

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Cyngor Bwrdeistref Siro



A Public Right of Way runs through the site from north to south known as Footpath 29 – Newcastle Higher. The application proposes to slightly divert the footpath to align with the proposed development. The site is surrounded by existing residential development on 3 sides comprising of small cul-de-sacs of detached houses. The western part of the site also shares a boundary with Smyrna Baptist Church. Located to the east of the site is a parcel of land that is in private ownership and which is subject to a recent planning application approved for the erection of 4 detached residential dwellings.

An area of informal recreation space is provided in the central part of the site. This area will also include landscaping planting and ecological mitigation. An engineered bank will separate the northern and southern part of the site, with trees and landscape planting provided throughout the site.

The application also proposes to create a 12m x 3m wide access into the Cavendish Park playing/sports field to the east of the site. This will comprise of a level surfaced vehicular and pedestrian pathway from the footpath to the playing field.

The proposed site layout comprises of 20 dwellings, including 3 affordable homes, with the majority of the properties being 4 and 5 bedroom homes with a short terrace of three 2 bedroom dwellings as the affordable housing provision. The site will be split into two sections, north and south with access to the site from All Saints Way to the north and off Clos Smyrna to the south. An amended site layout plan was submitted on the 9th April 2018 which illustrated the correct Public Right of Way route which is to be diverted and re-routed.

Proposed Site Layout:



The proposed dwellings will be two storeys in height in the northern part of the scheme, however due to the site levels, properties to the southern part of the site will be split level, with two storeys to the front and three storeys to the rear. At the northern end of the site, a new embankment is proposed to the rear gardens to accommodate site levels and to provide flat gardens. There are 6 house types proposed and these all consist of dark grey ridge tiles, reconstituted roof tiles, smooth render to upper floors painted white with red brickwork plinth to the ground floor, UPVC windows and doors and aluminium up and over garage door. There are elements of facing stone brickwork on the front elevation of the dwellings which increases with the size of the properties. House Type A comprises of a kitchen, hall, dining and living room at ground floor and two bedrooms and a bathroom at first floor level with one off street parking space allocated to each dwelling located to the side of the dwellings. House types B,C,D and E comprise of an internal garage, lounge, dining room, kitchen, utility room and WC at ground floor level and four/five bedrooms, ensuite and family bathroom at first floor level with two off street parking spaces accommodated on the front driveway. House Types F and F1 are three storey properties and comprise of the above with a family room located on the lower ground floor and rear balconies located at first floor level.

Example of the F1 House type:



The application site lies within the residential settlement boundary of Pen y Fai as defined by Policy PLA1 of the LDP 2013 and lies approximately 2 miles from Bridgend. The application site is located close to the local facilities of Pen y Fai such as the primary school, local shops and playing fields as well as the village pub, church buildings and bus stops. The site is currently vacant and comprises of trees and scrub land and is surrounded by existing residential dwellings.

The following documents have been submitted with the planning application:

- Design and Access Statement;

- Ecological Assessment by David Clements Ecology;
- Transport Statement;
- Pre-Application Consultation (PAC) Report;
- Tree Survey and Tree Constraints Plan by Tree Scene;
- Detailed Site Layout Plan, Elevations and Floor Plans;
- Engineering Strategy;
- Site Cross Sections;
- Landscape Strategy;
- Site Location Plan;
- Site Layout Plan;
- Site Investigation Report by Integral Geotechnique;
- Invasive species survey and method statement by David Clements Ecology;
- 3D images of the proposed development

RELEVANT HISTORY

None

PUBLICITY

The application was advertised on site and in the press.

Neighbours have been notified of the receipt of the application.

The period allowed for response to consultations/publicity expired on 12 February 2018

CONSULTATION RESPONSES

Newcastle Higher Community Council – Objects to the proposed development on the impact on highway, ecology, drainage, character, scale and privacy.

Head of Street Scene (Highways) - No objection subject to conditions.

Head of Street Scene (Drainage) – No objection subject to standard conditions and advisory notes.

Head of Street Scene (Waste and Recycling) - Raises concerns over width of proposed roads and room for waste vehicles to manoeuvre within the site.

Head of Public Protection – No objection subject to advisory notes.

Public Rights of Way Manager – No objection to the revised plans and diversion of Footpath 29 Newcastle Higher.

Welsh Water Developer Services – advise that surface water shall only be discharged into the public sewer as a last resort and the developer will have to demonstrate that all other options have been explored and exhausted with consideration given to sustainable methods of drainage. DC/WW has therefore requested a condition be attached for the submission of a drainage scheme prior to works commencing on site.

Designing Out Crime Officer - No objection to the site layout but requests that the residential properties overlook the public right of way to provide natural surveillance to prevent the creation of rat runs.

Natural Resource Wales (NRW) – No objection to the proposed development and advises to contact the Authority's Ecologist in relation to European Protected Species such as bats and dormice.

Destination and Countryside Manager – No objection following further assessment of additional information regarding invasive species survey and method statement.

REPRESENTATIONS RECEIVED

Cllr. Altaf Hussain (Local Member) objects to the proposed development.

25 letters of objection were received regarding the proposed development and the concerns have been summarized as follows:

- Overdevelopment of the site;
- Increased traffic;
- Impact on ecology/wildlife;
- Privacy/overlooking/overshadowing/overbearing;
- Loss of light and views;
- Concerns over safety issues and pedestrian access;
- Noise pollution
- Surface water concerns due to loss of trees and vegetation;
- Covenant to prevent development of the site;
- Impact on the public footpath;
- Lack of parking;
- Loss of trees/wildlife/plants;
- No provision of new facilities;
- Out of character with area;
- Impact on highway;
- Concerns over narrow road within site and refuse collection;
- Impact of excavation works;
- Stability of land;
- Damage to boundary walls;
- Decrease in value of properties;
- Clearance of the site prior to planning permission being granted;
- Concerns over safety and impact of development on public right of way;
- Concerns of flooding and drainage on the site;
- Concerns over access for emergency vehicles to the proposed site;
- Site former quarry – not suitable for development;
- Inadequate consultation with local residents;
- Conflict of interest with BCBC and sale of land;
- Impact on local school

Amended plans were received on the 3rd April 2018 which relate to the site levels/cross section plans. The sectional plans now show the proposed houses in relation to the neighbouring properties at Clos Smyrna and Clos y Talcen as this was one of the main concerns of the neighbours.

Sections between proposed and existing homes :



A new site layout plan was also submitted which shows changes to the PROW (Public Right of Way) diversion and some minor works to the proposed footpaths within the site and proposed access to the playing fields. A further consultation was undertaken with neighbouring properties and 10 letters of objection were received. The majority of the representations re-iterated the concerns raised above, however the following points were raised in relation to the amended plans:

- Concerns over the proposed changes to the footpath with its series of 12 steps and its steepness will prevent families with small children and prams from using the route and elderly residents who regularly use the path.
- Lack of privacy for Nos. 5 and 6 Clos Smyrna as proposed road is located at a higher level than the houses.
- Concerns over the safety of the use of the public footpath and its relationship with moving vehicles.
- Concerns of the rear garden security of the wildlife corridor located to the rear of the proposed dwellings both on the northern plateau to the rear of Plot Nos. 1-11 and southern plateau Plot Nos. 15-20 and lack of detail of planting in this area;
- Concerns over loss of privacy to existing residential dwellings due to the proposed three storey houses at Plots 15-20;
- Drainage – concern over the disposal of water from the site on the rear gardens of the existing residential properties;
- Concerns over the proposed material for the boundary walls as the existing walls in the area are brick;
- Concern over ownership, responsibility and maintenance for drainage of the site and the engineered bank.

COMMENTS ON REPRESENTATIONS RECEIVED

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

Devaluation of properties and land covenants are not material planning considerations.

Local residents have been consulted on the application by the Local Planning Authority as stated under Section 12 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012.

The sale of the land has been subject to a separate process with the Council's Property Section.

Prior to the submission of this application, clearance works were undertaken by the applicant such as the removal of vegetation and works to trees that are not protected. These works did not require the benefit of formal planning permission and were approved under a separate licence granted by Natural Resources Wales.

PLANNING POLICIES

Local Policies

The Development Plan for the area comprises of 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 SP2 – Design and Sustainable Place Making
- Strategic Policy SP3 – Strategic Transport Planning Principles
- Policy PLA1 – Settlement Hierarchy and Urban Management
- Policy PLA11 – Parking Standards
- Policy ENV6 – Nature Conservation
- Policy COM3 – Residential Re-Use of a Building or Land
- Policy COM5 – Affordable Housing
- Policy COM11 -Provision of Outdoor Recreation Facilities

Supplementary Planning Guidance

SPG02 – Householder Development;
SPG08 – Residential Development;
SPG13 – Affordable Housing;
SPG17 – Parking Standards; and;
SPG19 – Biodiversity and Development.

National Planning Policy and Guidance

National planning guidance in the form of Planning Policy Wales (Edition 9, November 2016) (PPW) is of relevance to the determination of this application.

Chapter 4 of PPW deals with planning for sustainability – Chapter 4 is important as most other chapters of PPW refer back to it, part 4.3 and 4.3.1 in particular
“4.3 Principles

4.3.1 The following principles underpin our approach to planning policy for sustainable development and reflect those principles that we expect all those involved in the planning system to adhere to:

- *putting people, and their quality of life now and in the future, at the centre of decision-making;.....*
- *respect for environmental limits, so that resources are not irrecoverably depleted or the environment irreversibly damaged. This means, for example, mitigating climate change, protecting and enhancing biodiversity, minimising harmful emissions, and promoting sustainable use of natural resources;*
- *tackling climate change by reducing the greenhouse gas emissions that cause climate change and ensuring that places are resilient to the consequences of climate change;..”*

Chapter 9 of PPW is of relevance in terms of the advice it provides regarding new housing. Whilst the bulk of Chapter 9 is of relevance to housing proposals in general, the following is considered to be of specific relevance to this proposal:

9.3.1 New housing developments should be well integrated with and connected to the existing pattern of settlements. The expansion of towns and villages should avoid creating ribbon development, coalescence of settlements or a fragmented development pattern. Where housing development is on a significant scale, or where a new settlement or urban village is proposed, it should be integrated with existing or new industrial, commercial and retail development and with community facilities.

9.3.2 Sensitive infilling of small gaps within small groups of houses, or minor extensions to groups, in particular for affordable housing to meet local need, may be acceptable, though much will depend upon the character of the surroundings and the number of such groups in the area. Significant incremental expansion of housing in rural settlements and small towns should be avoided where this is likely to result in unacceptable expansion of travel demand to urban centres and where travel needs are unlikely to be well served by public transport. Residential development in the vicinity of existing industrial uses should be restricted if the presence of houses is likely to lead residents to try to curtail the industrial use.

Technical Advice Notes:

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 2 – Planning and Affordable Housing (2006)
- Technical Advice Note 5 – Nature Conservation and Planning (2009)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 18 – Transport (2013)

APPRAISAL

The application is referred to the Planning Committee due to the number of neighbour objections received regarding the proposed development.

The main issues to consider in this application are the principle of the development, the impact of the proposed development on the character and appearance of the street scene and wider area, impact on the neighbouring properties, ecology, drainage, public right of way and consideration of access and parking.

Principle of the Development

The application site lies within the residential settlement boundary of Pen-y-Fai as defined by Policy PLA1 of the LDP 2013. Policy COM3 *Residential Re-Use of a Building or Land*

of the LDP states that residential developments within settlement boundaries defined in Policy PLA1 on windfall and small scale sites for the conversion of existing buildings, or the re-use of vacant or under-utilised land, will be permitted where no other policy protects the building or land for an existing or alternative use. The proposed site would classify as a vacant site under Policy COM3, which makes an important contribution to the overall housing supply and introduce an important element of choice and flexibility into the housing market. The site is not allocated for a specific use; therefore residential development would be acceptable in principle subject to other LDP Policies.

In conclusion, the principle of residential development accords with Policies PLA1 and COM3 of the LDP and is therefore considered acceptable subject to compliance with the subject areas outlined below.

Impact on character and appearance of the street scene and wider area

The application site is located within the predominantly residential area of Pen y Fai and currently comprises of vacant, sloping scrub land and woodland. Whilst the site currently provides an area of openness and foliage, it is considered that the introduction of 20 new residential dwelling would be in keeping with the residential area. Following an assessment of the submitted plans and proposed house types, it is considered that the overall design, scale and materials proposed are considered to reflect that of the surrounding existing residential housing located at Clos Smyrna , Clos lechyd and Hillside as they are large dwellings which sit within relatively large plots. The proposed development will also result in an adequate level of amenity space to serve the development. Concerns were initially raised by the LPA regarding the impact of the proposed parking on the appearance of the street scene. From viewing the submitted plans, it was noted that particularly the southern plateau and the row of three storey dwellings, that the street frontage would be dominated by the appearance of off street parking. The applicant has now provided justification and 3D views/images which provides an impression of how the vehicles will sit within the development. The introduction of soft landscaping such as green hedges and trees is considered to help to reduce the impact and will improve the overall appearance of the development. In view of this, the proposed development is considered to sit well within the site and relate well with the surrounding properties which seeks to enhance the character and appearance of the existing area.

Accordingly, it is considered that the proposed development accords with Policies SP2 (2) and SP2 (3) of the LDP 2013 in this respect.

Impact on the neighbouring properties

As mentioned above, the site is located within a predominately residential area and is surrounded by a number of existing properties.

The proposed dwellings located on the northern plateau of the site are located approximately 35m away from the rear of the properties of Hillside and are therefore not considered to have an unacceptable impact on the privacy and residential amenities that the occupiers of these properties currently enjoy. Also, the proposed three properties located at the entrance of the site are set back into the site and are separated by the access road and Public Right of way from the new dwellings that have been erected opposite the site. Accordingly, the proposed development is not considered to have a significant adverse impact on the residential amenities of these properties.

With regard to the southern plateau, whilst it is noted that the site is sloping, the applicant has provided amended plans to show the site levels/ cross section of the site and how the proposed dwellings sit in relation to the existing dwellings at Clos Smyrna and Clos y Talcen. Whilst the proposed dwellings are located at a slightly higher level than the existing properties due to the sloping nature of the site, it is acknowledged that some views maybe afforded into the properties, however having regard to the distances

between the properties, which comply with the Council's standards as set out in the Council's SPG02: Householder Development, it is not considered to result in a significant adverse impact on the privacy and residential amenities these properties currently enjoy.

In relation to No.5 Clos Smyrna, whilst Plot 20 is located within close proximity to this dwelling, due to the setback position of the dwelling within the plot and the design of the proposed dwelling (no windows located in the side elevation), it is considered that there will be no unacceptable impact on the privacy that this property currently receives as a result of the development. As the proposed dwelling will be located slightly higher than the existing dwelling, Plot 20 is to be set back off the boundary by approximately 3metres and the implementation of appropriate landscaping will assist in reducing further any impacts on the existing property.

In relation to the impact of Plot 20 on No.4 Clos Smyrna, it is worth noting that there is a first floor frosted window that serves as a bathroom on the side (northern) elevation of the existing property and, in view of this, it is considered that the proposed development will not have an unacceptable impact on the privacy and residential amenities of this property. With regard to the impact of the development on the private rear garden of this property, whilst it is noted that some views maybe afforded into the rear garden area, due to the distance between the two properties, the introduction of a landscaped buffer between the two sites and the position of No.4 at a lower level than the proposed dwellings, it is considered that there will be no significant adverse impact on the residential amenities that this property currently enjoys.

It is also considered that whilst there will be a greater impact on No.5 and 6 Clos Smyrna as a result of the location of the proposed access road into the site, however, the amount of noise generated is considered to be limited due to the number of properties in which the road will serve. The proposed access road will also be located at a higher level than the existing properties and in view of this it is considered necessary to attach a condition to any consent granted to request details of a scheme for the erection of a means of enclosure along the rear boundary of both properties (5 and 6 Clos Smyrna) in order to reduce any visual intrusion and to protect the privacy of the current occupiers.

Accordingly, it is considered that the proposed development will not have a significant adverse impact on the residential amenities currently enjoyed by the neighbouring properties with particular reference to Nos. 4, 5 and 6 Clos Smyrna and therefore accords with Policy SP2 (12) of the LDP and the Council's Supplementary Planning Guidance SPG02: Householder Development.

Access and Parking.

The Council's Transportation Officer has assessed the submitted scheme and has noted that the applicant has provided comprehensive site layout details which have been agreed through a number of iterations during the consultation process. However the applicant has not provided adequate detail regarding the relationship of the existing footpath, the proposed access into the sports field and also the change in surface from the existing footpath and the diverted footpath. It is considered that the existing footpath at the northern end of the development should be completed in a surface that matches the diverted footpath at the southern end of the site to encourage active travel and adhere to the Active Travel Act 2013 and this can be addressed via condition.

With regards to the proposed Green Slope embankment which will support the highway of the northern end it is noted that this will be designed by a specialist appointed by the applicant. However to ensure that the retaining structure meets the requirements of the Highway Authority, it is considered necessary to attach a condition to request the submission of this information. In addition, the applicant has not provided any details of

the vehicle and pedestrian system at the top of the embankment and as such further details have been requested to be submitted via condition 13 to address this concern. The applicant has provided off-street parking which meets the Council's adopted parking standards, SPG17, for new residential dwellings. However it is noted that the proposed visitor parking spaces are substandard in length for a parallel parking space as detailed in SPG17 and therefore a scheme is required to be submitted to address this matter via condition 17.

Finally to protect the residential amenity of the existing residents and protect the free flow of traffic on the surrounding highway network, a construction management plan is required to be submitted and agreed by the LPA which seeks to restrict vehicle movements during peak periods and avoid heavy goods vehicles during school drop off and collection times.

Accordingly, it is considered that the proposed development will not give rise to any unacceptable impact on highway safety and as such accords with Policies SP2(6), SP3 and PLA11 of the LDP and the Council's Supplementary Planning Guidance SPG17: Householder Development.

Drainage

The Council's Drainage Officer has assessed the submitted plans and has raised no objection to the proposed development subject to the imposition of a condition to any granted consent regarding a drainage scheme to be submitted and agreed by the LPA prior to any works commencing on the site, which accords with Policy SP2 (13) of the LDP.

The application site does not lie within a Flood Risk Zone as defined by the Welsh Government Development Advice Maps and the disposal of surface water from the site will be dealt with via the imposition of the above condition.

Proposed new access to playing fields

As part of the proposed scheme, there is to be a new 12m x 3m wide vehicular and pedestrian access created to the Cavendish Park Playing fields. The applicant has provided details of the construction of the access and how it will be retained in relation to the change in level by the insertion of steps, the Public Right of Way and the neighbouring residential development of four dwellings. However, it is considered necessary to attach a condition requesting details drawings of the above and of the surface finish of the access track to be submitted and approved by the LPA prior to the commencement of works on site to ensure the materials are in keeping with the area and accord with Policies SP2 and SP3 of the LDP.

Green Bank Area/Retaining Wall

The applicant has submitted a site investigation report into the stability of the green bank area and the proposed retaining walls. The green bank area is to be planted up and grassed over and used as informal open space. The Council's Structural Engineer has assessed the submitted information and the information is considered acceptable and accords with Policy ENV13 of the LDP 2013.

Landscaping

The applicant has submitted a landscaping plan and strategy for the site. The strategy includes native planting and the use of trees and hedge planting within the development.

A copy of the landscaping strategy is provided below:



The proposed landscaping seeks to provide adequate screening and mitigation with the existing residential properties and retain as much biodiversity at the site as possible and therefore seeks to enhance the character and appearance of the area. In view of this, the landscaping proposals are considered acceptable and therefore accord with Policies SP2 (10) and ENV6 of the LDP and the Council's Supplementary planning Guidance SPG19: Biodiversity and Development.

Public Right of Way

A Public Right of Way (PROW) Footpath 29 Newcastle Higher runs through the eastern part of the site. The applicant has proposed and has submitted the relevant application to divert the PROW along the new entrance to the playing field and then to join the main highway at Clos Smyrna with the introduction of 12 steps. In view of this, it is considered necessary to attach a condition to any consent granted to request details of a scheme for a pedestrian link to connect both the northern and southern plateaus of the site. The Council's Rights of Way officer has been consulted on this matter and has raised no objection to the proposed diversion.

Other Matters

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

Prior to the submission of this application, clearance works were undertaken by the applicant such as the removal of vegetation and works to trees that are not protected. These works did not require the benefit of formal planning permission and were approved under a separate licence granted by Natural Resources Wales.

An ecological assessment of the site has been prepared by David Clements Ecology Ltd and has been assessed by the Council's Ecologist.

The submitted report states that the existing woodland supports a population of slow worm and other reptiles such as the common lizard. Bat activity surveys found at least four species of bat using the site for foraging, including brown long eared bats and myotis bat and that roosting opportunities appear limited. The site supports at least 10 common bird species but the site does not contain or lie immediately adjacent to any statutory sites of nature conservation interests such as Sites of Special Scientific Interest (SSSIs) or Sites for Importance for nature Conservation (SINC). Further information was submitted by David Clement on the 28th February 2018 regarding the works at the site and this was also assessed by the Council's Countryside Officer.

In view of above, the Council's Countryside Officer has raised no objection to the development subject to the works being carried out in accordance with the submitted information and pending the submission of an invasive species survey. On the 27th March 2018, an invasive species survey and method statement was submitted and assessed by the Council's Countryside Officer and was considered acceptable. Overall, 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.

Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act 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 wellbeing goals/objectives as a result of the proposed development.”

S106 Obligations

Initially, the applicant was advised that, as the application proposes the erection of 20 dwellings, Policy COM5 - Affordable Housing and Policy COM11 - Outdoor Recreation Facilities of the LDP are triggered. With regard to education, no financial contribution would be required as there is currently sufficient capacity provided for in the local catchment schools to accommodate new pupils.

The applicant has been engaged in discussions with BCBC throughout the pre-application period with a focus on the viability of the site and the need to meet the requirements of Policy COM5. There are various challenges to the development of this site, each of which has an impact on the profitability of a residential led scheme. These include: the topography of the land, the presence of a previously quarried area, the necessary treatment of partial Himalayan Balsam colonisation and the drainage and access solutions required to facilitate development. The viability appraisal produced by the applicant quantifies all of these abnormal development costs and includes for the provision of 3 units of affordable housing on-site, the costs of meeting highway requirements for two separate access points and provision of a new access to Cavendish Park Playing Field & Play Area to the east to satisfy the requirements of Policy COM11.

The provision of 3 of the 20 units as affordable housing is equal to 15% as opposed to the 20% required by Policy COM5. The affordable provision has been arrived at by a process of negotiation which the applicant has sought to justify through their viability appraisal which has been closely scrutinised. The abnormal costs referred to above have been challenged where felt necessary and the figures relating to construction, revenue and developer profit have been analysed against comparable schemes. The provision of 3 units of affordable housing on-site is felt to be a reasonable compromise between enabling a fair land value to be realised (thus allowing the scheme to proceed) and meeting the affordable housing policy.

The provision of a new access to the adjacent playing fields is considered to fulfil the requirements of Policy COM11 as it will facilitate use by new residents as well as those residing in adjacent streets subject to its design and finish.

CONCLUSION

The application is recommended for approval because the development complies with Council policy and guidelines and does not adversely affect the character and appearance of the street scene or wider area, or affects the privacy or visual amenities nor so significantly harms neighbours amenities ecology, drainage, public right of way or highway safety as to warrant refusal. Notwithstanding the concerns raised in the representations received, it is considered that the development will not give rise to any unacceptable impacts in terms of amenity, ecology or highway safety.

RECOMMENDATION

(R34) That permission be GRANTED subject to the following condition(s):-

(A) The applicant enter into a Section 106 Agreement to provide:

AFFORDABLE HOUSING

The Owner/Developer to provide for 3 affordable housing units on the site to be delivered in accordance with a scheme agreed in writing between the Owner, the Council and a nominated Registered Social Landlord. The affordable housing scheme will include details of the type of units, location within the site, affordable tenure and timescale for delivery.

PUBLIC OPEN SPACE

Establish a 'Management Company' for the future maintenance of the open space and landscape serving the development. Details of the Management Company, including the funding of the Management Company, and the maintenance regime shall be agreed in writing by the Local Planning Authority to ensure that the maintenance works are carried out in perpetuity.

(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, as follows:

1. The development hereby permitted shall be carried out in accordance with the following approved documents:
 - Application Forms dated 20th December 2017.
 - Amended Site Layout Plan – 2209-01Q received on the 18th April 2018.
 - Planning Statement prepared by Geraint John Planning received on the 20th December 2017.
 - Pre-Application Consultation Report prepared by Geraint John Planning received on the 20th December 2017.
 - Design and Access Statement prepared by Geraint John Planning received on the 20th December 2017.
 - Tree Survey and Tree Constraints Plans prepared by Tree scene received on the 20th December 2017.
 - Ecological assessment prepared by David Clements Ecology Limited received on the 20th December 2017.
 - Engineering strategy – 2209 – 500K received on the 9th April 2018.
 - Site Investigation Report prepared by Integral Geotechnique received on the 8th March 2018.
 - Landscaping Strategy Drawing No/ 387.01 REV A received on the 20th December 2017.
 - Site Location Plan - 2209- 100 received on the 20th December 2017.
 - Invasive Species Protocol and Method Statement prepared by David Clements Ecology Limited received on the 27th March 2018.
 - House Type A – 2209 – 101/A Floor Plans received on the 20th December 2017

and amended plan House Type A – 2209-102/A Elevations received on the 3rd April 2018. House Type B – 2209/103/A, 2209 – 104/A, House Type C – 2209/105/A, 2209-106/A, House Type D – 2209-107/A, 2209-108/A, House Type F – 2209-109/A, 2209-110/A and House Type F1 2209-112 received on the 20th December 2017.

- Playing Field Link – 2209- 503 received on the 3rd April 2018.
- Amended site cross sections - 2209-5011 and site cross sections 2209-503 received on the 9th April 2018.
- 3D images of the development received on the 3rd April 2018.
- Swept Path Analysis 2209/SK650 received on 7th March 2018.

Reason: For the avoidance of doubt as to the nature and extent of the approved scheme.

2. No development shall take place until a detailed specification for, or samples of, the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed details.

Reason: To ensure that the proposed materials of construction are appropriate for use on the development so as to enhance and protect the visual amenity of the area.

3. No development shall take place until there has been submitted to and agreed in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected and a timetable for its implementation. Development shall be carried out in accordance with the agreed plan and timetable.

Reason: To ensure that the general amenities of the area are protected.

4. 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 the 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.

5. Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B and C of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any Order revoking and re-enacting that Order with or without modification) no works shall be carried out other than those expressly authorised by this permission.

Reason: To enable the Local Planning Authority future control over the scale and extent of the development, in the interests of the residential amenities of adjacent properties and to protect the amount of outdoor amenity space provided within the property.

6. Notwithstanding the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any Order revoking and re-enacting that Order with or without modification), no building, structure or enclosure required for a purpose incidental to the enjoyment of a dwelling-house shall be constructed, erected, or placed within the curtilage of dwelling hereby approved.

Reason: To enable the Local Planning Authority to control the scale of development

7. No windows other than those hereby approved shall be inserted into the side elevations of the new dwellings.

Reason: To safeguard the privacy and residential amenities of adjoining neighbouring occupiers.

8. No development shall commence until a scheme for the erection of a means of enclosure to be erected to the rear of Nos.5 and 6 Clos Smyrna to include details of design, height and materials of the enclosure has been submitted and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented before the development is brought into beneficial use and retained in perpetuity.

Reason: To protect the privacy and residential amenities of the occupiers of Nos. 5 and 6 Clos Smyrna.

9. No development shall take place until a schedule of landscape maintenance for a minimum period of 3 years has been submitted to and agreed in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the agreed schedule.

Reason: To maintain and improve the appearance of the area in the interests of visual amenity, and to promote nature conservation.

10. No development shall commence until a scheme for the construction of the proposed access to the sports field detailing any retaining structures, site levels, boundary treatments, surface material to be used on the sports field access and the vehicle restraints used at the entrance of the sports field access route located on the southern plateau, has been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented before the development is brought into beneficial use and retained in perpetuity.

Reason: In the interests of highway and pedestrian safety.

11. No development shall commence until a scheme for the provision of a shared use pedestrian / cycle route linking the northern plateau to the southern plateau has been submitted to and approved in writing by the Local Planning Authority. The shared use route shall be implemented in permanent materials before the development is brought into beneficial use and retained in perpetuity.

Reason: In the interests of highway safety and complying with the Active Travel (Wales) Act 2013.

12. No development shall commence until a scheme detailing the type of vehicle and pedestrian restraint system used at the top of the embankment of the northern plateau, has been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented before the development is brought into beneficial use and retained in perpetuity.

Reason: In the interests of highway and pedestrian safety.

13. The access road and turning facility for both of the northern and southern plateaus shall be completed in permanent materials in accordance with details that are to be submitted to and approved by the Local Planning Authority prior to the development being brought into beneficial use. Development shall be carried out in accordance with the agreed

scheme and shall be retained for such purposes in perpetuity.

Reason: In the interests of highway safety.

14. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
 - ii. Loading and unloading of plant and materials
 - iii. Storage of plant and materials used in constructing the development
 - iv. The erection and maintenance of security hoarding
 - v. Wheel washing facilities
 - vi. Measures to control the emission of dust and dirt during construction
 - vii. A scheme for recycling/disposing of waste resulting from demolition and construction works
 - viii. The segregation of users of Footpath 29 Newcastle Higher from the development.

Reason: In the interests of highway and pedestrian safety and to ensure that the highway amenities of the area are not unduly affected.

15. The individual dwelling parking areas shall be completed in permanent materials in accordance with the approved layout prior to the development being brought into beneficial use and retained for the purpose of parking in perpetuity.

Reason: In the interests of highway safety.

16. No development shall commence until a scheme for the provision of 4 off street parking spaces for visitors has been submitted to and agreed in writing by the Local Planning Authority. The visitor parking areas shall be completed in permanent materials with the individual spaces clearly demarcated in permanent materials in accordance with the approved layout prior to the development being brought into beneficial use and shall be retained for visitor parking purposes in perpetuity.

Reason: In the interests of highway safety.

17. Street nameplates reflecting the official street name allocated by the Council shall be erected by the developer at locations and to a specification to be agreed with the Local Planning Authority prior to beneficial occupation of the first dwelling house in the street that has been so allocated.

Reason: In the interests of public and highway safety.

18. No development shall commence on site until engineering details of any retaining structure abutting or affecting the highway, including calculations certified by a professional engineer, have been submitted to and approved in writing by the Local Planning Authority. The retaining walls shall be constructed in accordance with the approved details prior to the completion of the first dwelling.

Reason: In the interests of highway safety.

* THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS

- a) The application is recommended for approval because the development complies with Council policy and guidelines and does not adversely affect the character and

appearance of the street scene or wider area, or affects the privacy or visual amenities nor so significantly harms neighbours amenities ecology, drainage, public right of way or highway safety as to warrant refusal

b) The applicant may need to apply to Dwr Cymru / Welsh Water (DCWW) for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption" - 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

c) The applicant is also advised that some public sewers and lateral drains may not be recorded on the maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist DCWW in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

d) The Public Protection Section draws your attention to the possibility of gases (landfill gases, vapours from contaminated land sites, and naturally occurring methane and carbon dioxide, but not radon gas) being generated at the site or land adjoining thereto, and recommend investigation and monitoring of the area.

d) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing within 2 days to the Public Protection Section, all associated works should stop and no further development should take place until a scheme to deal with the contamination found has been approved..

e) Any topsoil [natural or manufactured] or subsoil, to be imported, should be assessed for chemical or other potential contaminants and only chemical or other potential contaminants free material should be imported.

f) Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported should be assessed for chemical or other potential contaminants and only chemical or other potential contaminants free material should be imported.

g) Any site won material including soils, aggregates, recycled materials should be assessed for chemical or other potential contaminants and only chemical or other potential contaminants material should be reused.

h) The contamination assessments and the affects of unstable land are considered on the basis of the best information available to the Planning Authority and are not necessarily exhaustive. The Authority takes due diligence when assessing these impacts, however you are minded that the responsibility for

i) It is an offence under Section 33 of the Environmental Protection Act 1990 to deposit controlled waste on a site which does not benefit from an appropriate waste management license. The following must not be imported to a development site;

- Unprocessed / unsorted demolition wastes.

- Any materials originating from a site confirmed as being contaminated or potentially contaminated by chemical or radioactive substances.
- Japanese Knotweed stems, leaves and rhizome infested soils. In addition to section 33 above, it is also an offence under the Wildlife and Countryside Act 1981 to spread this invasive weed.

j) In respect of Condition 5, the following information is required:

- Provide confirmation of agreement from DCWW regarding the acceptance of connections to the public sewers for foul, surface water and highway drainage.
- Provide a final foul, surface water and highway drainage layout.
- Provide S104 plan outlining what elements of the surface water network are being offered for adoption to DCWW.
- Provide a maintenance plan for the highway drainage systems, including proposed maintenance responsibility.
- Provide hydraulic calculations to confirm sufficient surface water attenuation has been provided for storm events and sewer networks have been adequately sized for the proposed development.
- Provide technical and maintenance details associated with the proposed cellular storage.
- Provide maintenance schedule associated with the site wide surface water network.

MARK SHEPHARD
CORPORATE DIRECTOR COMMUNITIES

Background Papers
None

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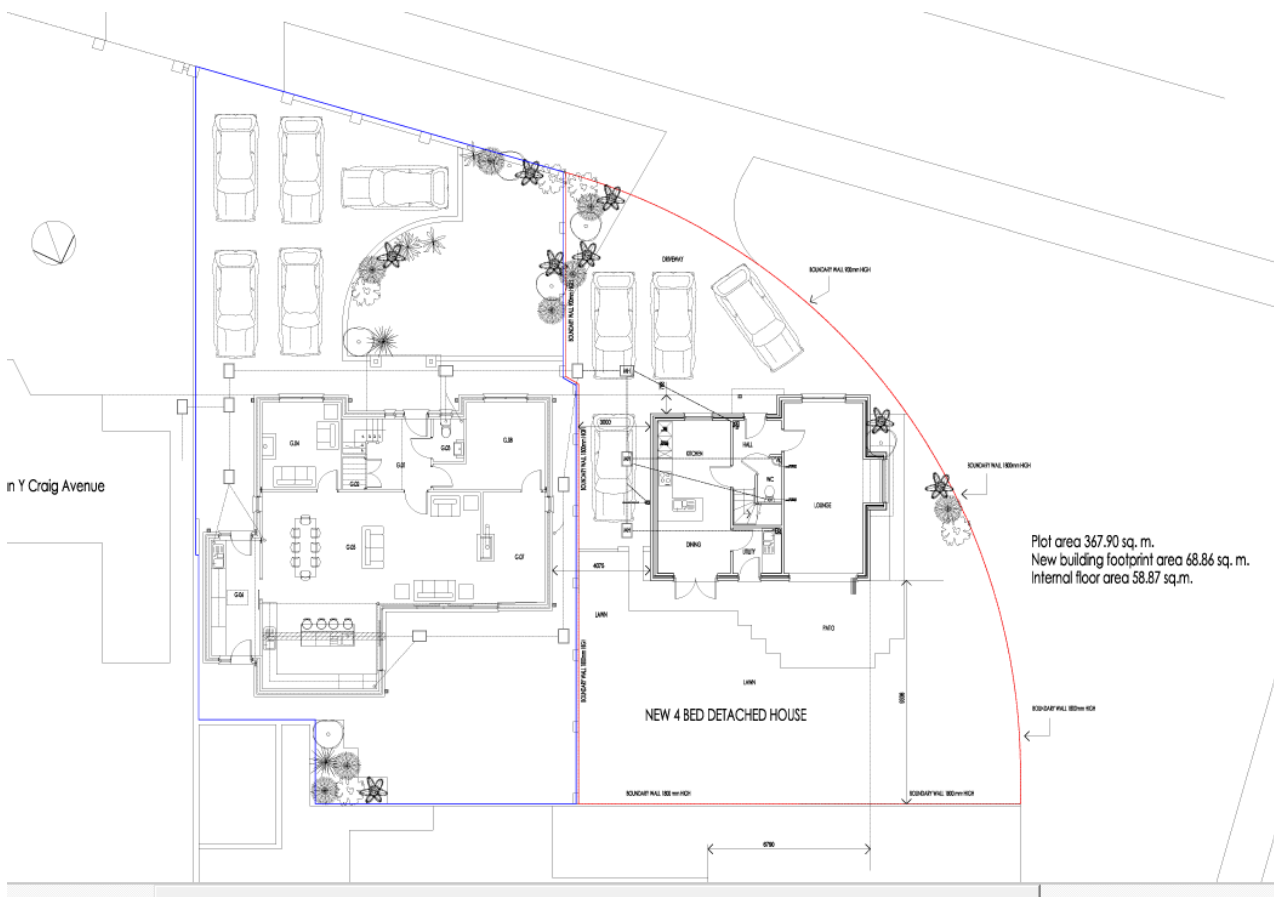
REFERENCE: P/17/910/FUL
APPLICANT: A Woodhall 1 Danygraig Avenue, Porthcawl, CF36 5AA
LOCATION: Adjacent to 1 Danygraig Avenue Porthcawl CF36 5AA
PROPOSAL: Four bed detached house and access
RECEIVED: 27 October 2017
SITE INSPECTED: 15 November 2018

APPLICATION/SITE DESCRIPTION

The application seeks full planning permission for the erection of a four bedroom detached dwelling with associated access at Land adjacent to 1, Danygraig Avenue, Porthcawl.

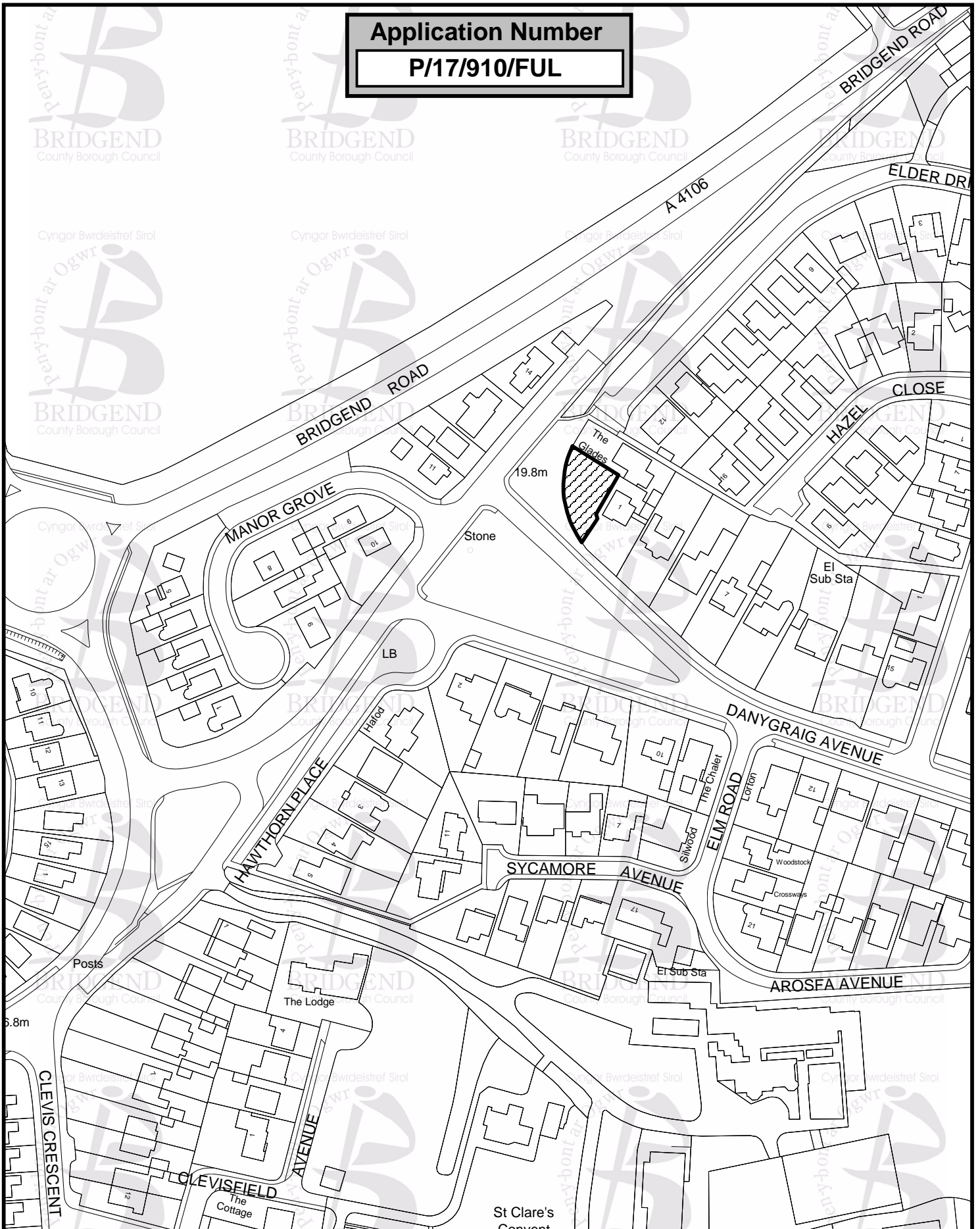
The application seeks to erect a large, two storey detached dwelling on an area of land which currently comprises an open grassed area. The site area will extend approximately 368 sq. m, whilst the footprint of the building will be approximately 69 sq. m and will be in line with the adjacent property known as 1 Danygraig Avenue. The property will be set back from the main highway by approximately 11m with a large front garden and a new access and driveway to accommodate 4 off street parking spaces.

Proposed Site Layout:



Application Number

P/17/910/FUL



Scale 1:1,750

Date Issued:
20/04/2018

Development-Mapping
Tel: 01656 643176

Mark Shephard

Corporate Director-Communities

Communities Directorate,
Bridgend County Borough
Council, Civic Offices,
Angel Street,
Bridgend CF31 4WB.

O/Drive/Plandraw/new MI layouts/
Committee DC Plan

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Cyngor Bwrdeistref Sirol



The proposed dwelling will measure approximately 10m x 8.4m, to an overall height of some 7.8m with a pitched roof. The property will have a two storey front projecting gable extension with a front porch and a projecting bay style UPVC window located on the ground floor western elevation. The proposed external materials will be slate roof, white UPVC windows and doors, smooth render painted white and a facing brick plinth. The dwelling will comprise a kitchen, lounge, dining room, hall, utility room and WC at ground floor and four bedrooms (bedroom one with an en-suite) and a family bathroom at first floor level.

Amended plans were received on 17 January 2018 addressing concerns regarding the design of the proposed dwelling and its siting within the plot.

Proposed Elevations and Floor Plans:



The application site is located within the residential settlement boundary of Porthcawl as defined by Policy PLA1 of the LDP 2013. The site currently comprises an open grassed area located towards the junction of Danygraig Avenue and Hawthorn Place, Porthcawl. A residential property known as The Glades immediately abuts the rear of the application site and 1 Danygraig Avenue (which is currently under construction) is located to the east of the site. The neighbouring properties along Danygraig Avenue vary in their overall scale and general appearance but are all relatively large properties set within spacious plots.

RELEVANT HISTORY

P/10/111/OUT – Proposed New House – Approved (with conditions) – 19/04/2010.

Land adjacent to the site:

P/16/738/FUL - Two storey side extension, single storey rear extension & internal alterations to convert from 2 flats into 1 dwelling - Granted 24/10/2016.

P/17/97/FUL - Two storey side extension, single storey rear extension and internal modification and refurbishment from 2 flats to single residential dwelling – Approved (with conditions) – 14/03/2017.

PUBLICITY

The application was advertised on site.

Neighbours have been notified of the receipt of the application.

The period allowed for response to consultations/publicity expired on 5 December 2017

CONSULTATION RESPONSES

Porthcawl Town Council – No objection

Head of Street Scene (Highways) – No Objection

Head of Street Scene (Drainage) – No objection subject to the two conditions regarding a comprehensive drainage scheme and infiltration tests.

Head of Public Protection – No objection subject to standard advisory notes.

Welsh Water Developer Services - No objection subject to standard advisory notes

Destination and Countryside Manager - offers no observations on the application.

REPRESENTATIONS RECEIVED

Four letters of representation have been received regarding the proposal.

Cllr Kenneth Watts comments that the application can be determined under delegated powers.

Three letters of representation have been received from neighbouring properties raising the following concerns:

- Proposed dwelling is not in keeping with the area regarding its scale, size and appearance;
- The plot remains overdeveloped;
- Strategic planning approach across the two applications (1 Danygraig Avenue);
- The proposed dwelling will extend beyond the established building line of The Glades;
- Loss of privacy;
- Reduced daylight and overshadowing;
- Density of development – 2 dwellings, one plot;
- Inadequate garden space;
- Constrained on- site parking;
- Inadequate spacing between properties.

COMMENTS ON REPRESENTATIONS RECEIVED

The land subject to this application and the land adjacent, known as 1 Danygraig Avenue, are owned by the same person.

Outline planning permission was granted to erect a dwelling on this land in 2010. The Outline consent granted planning permission for a dwelling that extended further forward than the building of the property located to the rear (The Glades).

The majority of the concerns raised above have been addressed within the appraisal section below.

NEGOTIATIONS

Initially, concerns were raised regarding the design of the proposed dwelling and the siting of the dwelling within the plot. Following further discussions, amended plans were submitted to demonstrate that the proposed dwelling had been designed to reflect the features and character of the adjacent property (1 Danygraig Avenue) and had been re-sited within the plot in line with the approved 2010 consent.

PLANNING POLICIES

Local Policies

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

- Strategic Policy SP2 – Design and Sustainable Place Making
- Strategic Policy SP3 – Strategic Transport Planning Principles
- 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
SPG08 – Residential Development
SPG19 – Biodiversity and Development

National Planning Policy and Guidance

National planning guidance in the form of Planning Policy Wales (Edition 9, November 2016) (PPW) is of relevance to the determination of this application.

Chapter 9 of PPW is of relevance in terms of the advice it provides regarding new housing. Whilst the bulk of Chapter 9 is of relevance to housing proposals in general, the following is considered to be of specific relevance to this proposal:

9.3.1 New housing developments should be well integrated with and connected to the existing pattern of settlements. The expansion of towns and villages should avoid creating ribbon development, coalescence of settlements or a fragmented development pattern. Where housing development is on a significant scale, or where a new settlement or urban village is proposed, it should be integrated with existing or new industrial, commercial and

retail development and with community facilities.

9.3.2 Sensitive infilling of small gaps within small groups of houses, or minor extensions to groups, in particular for affordable housing to meet local need, may be acceptable, though much will depend upon the character of the surroundings and the number of such groups in the area. Significant incremental expansion of housing in rural settlements and small towns should be avoided where this is likely to result in unacceptable expansion of travel demand to urban centres and where travel needs are unlikely to be well served by public transport. Residential development in the vicinity of existing industrial uses should be restricted if the presence of houses is likely to lead residents to try to curtail the industrial use.

Technical Advice Notes:

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

Technical Advice Note 12 – Design (2016)

Technical Advice Note 18 – Transport (2013)

APPRAISAL

The application is referred to the Planning Committee due to the number of neighbour objections received regarding the proposed development.

The main issues to consider in this application are the principle of the development, the impact of the proposed development on the character and appearance of the street scene and wider area, impact on the neighbouring properties and consideration of access and parking.

Principle of the Development

The application site lies within the residential settlement boundary of Porthcawl as defined by Policy PLA1 of the LDP 2013. Policy COM3 *Residential Re-Use of a Building or Land* of the LDP states that residential developments within settlement boundaries defined in Policy PLA1 on windfall and small scale sites for the conversion of existing buildings, or the re-use of vacant or under-utilised land, will be permitted where no other policy protects the building or land for an existing or alternative use. The proposed site would be classed as a vacant site under Policy COM3. The site is not allocated for a specific use therefore residential development would be acceptable in principle subject to other LDP Policies.

In conclusion, the principle of residential development accords with Policies PLA1 and COM3 of the LDP and is therefore considered acceptable.

Impact on the character and appearance of the street scene and wider area.

The application site is located within the predominantly residential area of Porthcawl and currently comprises an open grassed area. It is worth noting from the planning history that Outline planning permission was granted to erect a dwelling on this land in 2010. The Outline consent granted planning permission for a dwelling that extended further forward than the building of the property located to the rear (The Glades). Following a site inspection, an assessment of the application site was undertaken and as a result, it was considered that the site is read in connection with Danygraig Avenue and not the houses located to the rear.

Whilst the land is currently an open grassed area, it is considered that the introduction of a detached dwelling would be in keeping with the residential area. Following further

discussions with the applicant and the submission of amended plans, it is considered that the overall design, scale and materials proposed reflect that of the adjacent property (1 Danygraig Avenue) and the surrounding properties located within the Avenue as they are large dwellings which sit within relatively large plots. The proposed development will also result in an adequate level of private amenity space to serve the development. The proposed development is also considered to sit well within the plot and relate well with the property at 1 Danygraig Avenue and would seek to enhance the character and appearance of the existing area.

The proposal is not, therefore, considered to be over development nor out of character with the existing pattern of development in the area.

Accordingly, it is considered that the proposed development accords with Policies SP2 (2) and SP2 (3) of the LDP in this respect.

Impact on neighbouring properties

From assessing the submitted plans, no windows are proposed to be inserted into the eastern facing elevation of the dwelling and therefore, the proposed development will have no adverse impact on the privacy and residential amenities of the occupier of 1 Danygraig Avenue, however it is considered necessary to attach a condition to ensure that no further windows are inserted into the eastern elevation of the dwelling in order to protect the privacy of the neighbouring property at 3, Danygraig Avenue. It is also considered that the proposed projecting bay window located on the western elevation will have no adverse impact on the neighbouring properties of Hawthorn Place due to the separation distance by the main highway.

It is acknowledged that there is a residential property (The Glades) sited in close proximity to the rear of the application site and the distance between the two properties will be approximately 12.5m. It is noted that there are two existing windows located at first floor level of The Glades, which serve a landing area and a bedroom.

From assessing the submitted plans, it is noted that the rear elevation of the proposed dwelling will comprise three windows at first floor level. Two of the windows will serve bedrooms and the middle window will serve an en-suite and will therefore be obscurely glazed. Whilst it is noted that views from the bedrooms will be afforded into the property, The Glades, it is considered that there will be no direct views due to the position of the existing windows located in The Glades and the position of the proposed dwelling. The new dwelling will overlook the front garden area of The Glades, however, this is already extensively overlooked from the public highway.

Also, located behind the rear boundary of the application site is an informal courtyard area which the Local Planning Authority (LPA) has been advised, is used by the occupiers of The Glades as a private amenity space. From assessing the proposed development, it is considered that due to the setback position of the dwelling from the boundary of the site by 9.5m, there will be no unacceptable impact on the residential amenities currently enjoyed by the occupiers or the amount of daylight that the property currently receives.

In view of this, it is considered that the proposed dwelling will have no significant adverse impact on the residential amenities of neighbouring properties, especially The Glades, and therefore the proposal accords with Policy SP2 (6) of the LDP.

Access and Parking

The Council's Highway Officer has considered the transportation implications of the proposal and it is noted that the amended plans show the removal of the integral garage. The plans demonstrate that 4 off street parking spaces can be accommodated within the curtilage of the site and, therefore, it is considered that the new proposal does not affect

the off-street parking provision. The proposal accords with Policy SP2 (6) and PLA11 of the LDP 2013 and the Council's Supplementary Planning Guidance SPG: 17 Parking Standards.

Drainage

The Council's Drainage Officer has raised no objection to the proposed development subject to the imposition of two conditions to any granted consent regarding infiltration tests and a drainage scheme to be submitted and agreed by the LPA prior to any works commencing on the site, which accords with Policy SP2 (13) of the LDP.

Other Matters

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 it is considered that, overall, 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.

Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act 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 wellbeing goals/objectives as a result of the proposed development.”

CONCLUSION

The application is recommended for approval because the development complies with Council policy and guidelines and does not adversely affect the character and appearance of the street scene or the wider area, the development does not affect the privacy or visual amenities of the area nor so significantly harms neighbours amenities or highway safety as to warrant refusal

RECOMMENDATION

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

1. The development shall be carried out in accordance with the following approved plans and documents, Site location Plan and Planning and Access Statement received on 27 April 2017 and amended plans drawing nos. P.20 REV D Proposed Site Location/Block Plan and drawing No. P21. REV E Proposed Plans/Elevations and Section received on 17 January 2018.

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

2. No development shall take place until a detailed specification for, or samples of, the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed details.

Reason: To ensure that the proposed materials of construction are appropriate for use on the development so as to enhance and protect the visual amenity of the area.

3. Notwithstanding the submitted details, no development shall take place until a plan indicating the positions, design, materials and type of boundary treatment to be erected and a timetable for its implementation has been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed plan and timetable.

Reason: To ensure that the general amenities of the area are protected.

4. 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 the future maintenance requirements, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall 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

5. No development shall commence on site until a suitable infiltration test, sufficient to support the design parameters and suitability of any proposed infiltration system, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to beneficial use.

Reason: To ensure that effective satisfactory management and disposal of surface water is provided for the proposed development.

6. Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B and C of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any Order revoking and re-enacting that Order with or without modification) no works shall be carried out other than those expressly authorised by this permission.

Reason: To enable the Local Planning Authority future control over the scale and extent of the development, in the interests of the residential amenities of adjacent properties and to protect the amount of outdoor amenity space provided within the property.

7. Notwithstanding the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any Order revoking and re-enacting that Order with or without modification), no building, structure or enclosure required for a purpose incidental to the enjoyment of a dwelling-house shall be constructed, erected, or placed within the curtilage of dwelling hereby approved.

Reason: To enable the Local Planning Authority to control the scale of development

8. No windows other than those indicated on the plans shall be inserted into the eastern elevation of the dwelling hereby permitted.

Reason: For the avoidance of doubt and to safeguard the privacy and residential amenities of the adjoining neighbouring occupiers of 3, Danygraig Avenue.

9. Notwithstanding the submitted details, no development shall take place until a scheme comprising of full details of both hard and soft landscape works have been submitted to and agreed in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include all proposed planting and landscaping such as schedule of plants/trees, species and number/densities, hard surfacing materials and implementation programme.

Reason: To maintain and improve the appearance of the area in the interests of visual amenity and to promote nature conservation.

* THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS

- a) The application is recommended for approval because the development complies with Council policy and guidelines and does not adversely affect the character and appearance of the street scene or wider area. The development does not affect the privacy or visual amenities of the area nor so significantly harms neighbours amenities or

highway safety as to warrant refusal

- b) The applicant may need to apply to Dwr Cymru / Welsh Water (DCWW) for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com
- c) The applicant is also advised that some public sewers and lateral drains may not be recorded on the maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist DCWW in dealing with the proposal the applicant may contact DCWW. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.
- d) Before creating, altering or reinstating any vehicular crossover, constructional details must be agreed with the Highway Maintenance Manager. You should contact the highway maintenance inspector for the area, Bridgend County Borough Council, Civic Offices, Angel Street, Bridgend. Telephone No. (01656) 642541.
- e) The Public Protection Section draws your attention to the possibility of gases (landfill gases, vapours from contaminated land sites and naturally occurring methane and carbon dioxide, but not radon gas) being generated at the site or land adjoining thereto and recommends investigation and monitoring of the area.
- f) In the event that contamination is found, at any time when carrying out the approved development, that was not previously identified it should be reported in writing within 2 days to the Public Protection Section, all associated works should stop and no further development should take place until a scheme to deal with the contamination found has been approved.
- g) Any topsoil [natural or manufactured] or subsoil, to be imported, should be assessed for chemical or other potential contaminants and only chemical or other potential contaminants free material should be imported.
- h) Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported should be assessed for chemical or other potential contaminants and only chemical or other potential contaminants free material should be imported.
- i) Any site won material including soils, aggregates, recycled materials should be assessed for chemical or other potential contaminants and only chemical or other potential contaminants free material should be reused.
- j) The contamination assessments and the effects of unstable land are considered on the basis of the best information available to the Authority and are not necessarily exhaustive. The Authority takes due diligence when assessing these impacts however, you are reminded that the responsibility for the safe development and secure occupancy of the site rests with the developer.

k) It is an offence under Section 33 of the Environmental Protection Act 1990 to deposit controlled waste on a site which does not benefit from an appropriate waste management licence. The following must not be imported to a development site;

- Unprocessed / unsorted demolition wastes.
- Any materials originating from a site confirmed as being contaminated or potentially contaminated by chemical or radioactive substances.
- Japanese Knotweed stems, leaves and rhizome infested soils. In addition to Section 33 above, it is also an offence under the Wildlife and Countryside Act 1981 to spread this invasive weed.

MARK SHEPHARD
CORPORATE DIRECTOR COMMUNITIES

Background Papers

None

REFERENCE: P/17/816/FUL

APPLICANT: Pyle Garden Centre 2 Heol Mostyn, Pyle, CF33 6BJ

LOCATION: Pyle Garden Centre 2 Heol Mostyn Pyle CF33 6BJ

PROPOSAL: Redevelopment and extension for extended coffee shop/restaurant area, farm shop, kitchen area, toilets and 2 new concession retail units

RECEIVED: 26th September 2017

SITE INSPECTED: 16th October 2017

DESCRIPTION OF PROPOSED DEVELOPMENT

This application seeks full planning permission for the redevelopment of the eastern edge of the application site to include an extension to the building, at Pyle Garden Centre, Pyle.

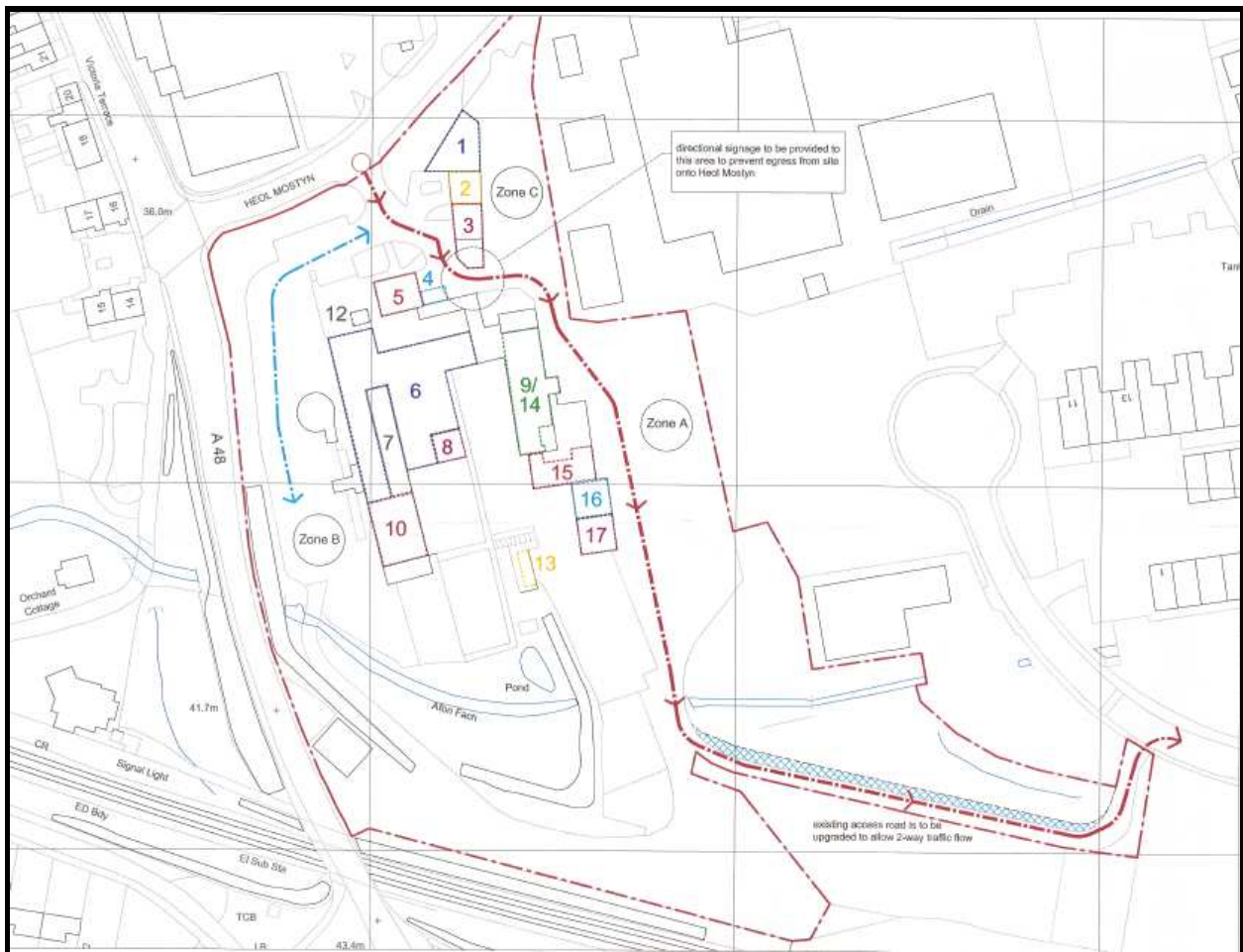


Figure 1

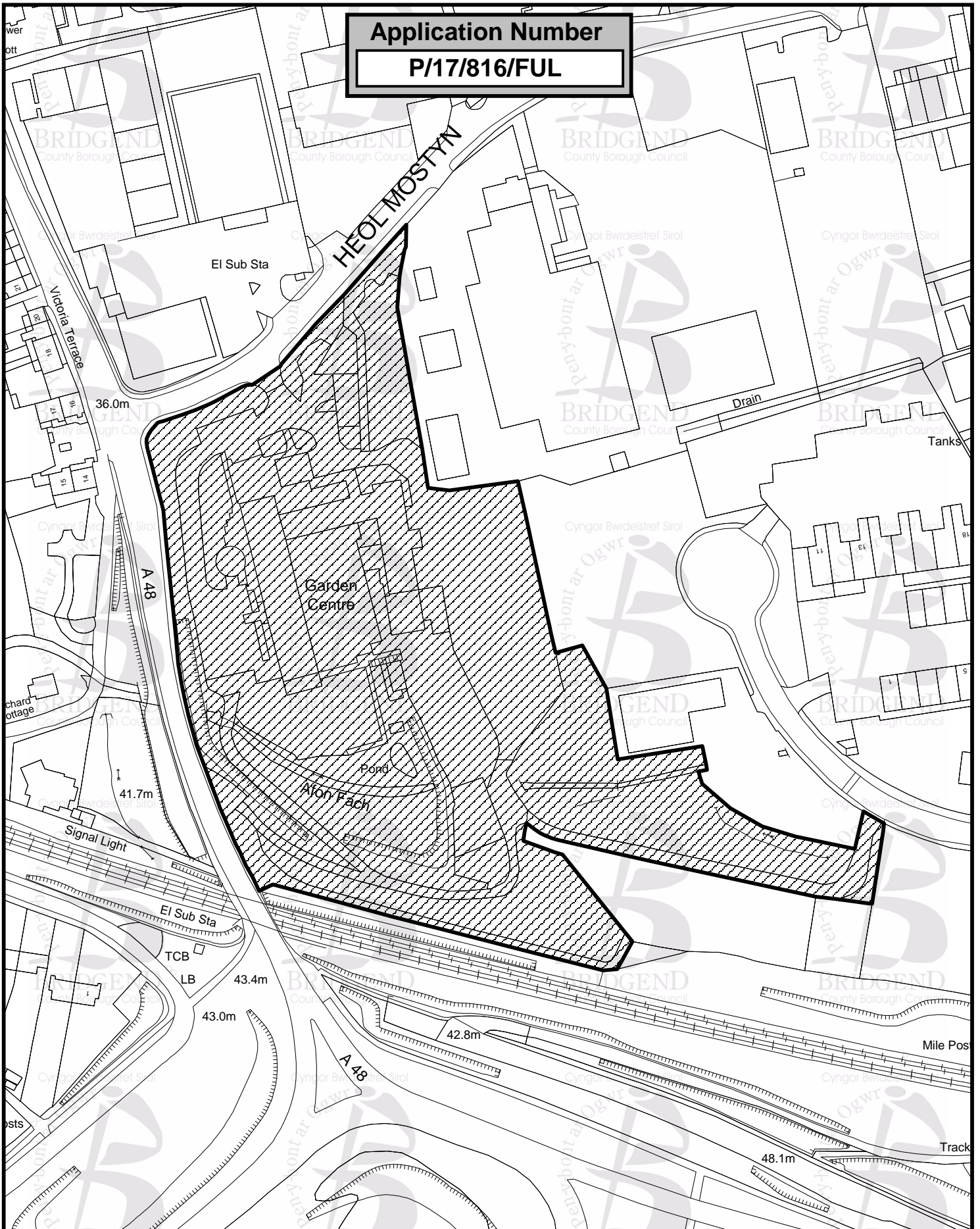
The redevelopment comprises an extension to the eastern section of the building to extend the existing 'Olive Tree Restaurant' area and provide toilet facilities. A coffee shop with delicatessen will replace the existing 'Animal Emporium' and 'Aqualogic'.

In addition, two concession retail units are proposed to be erected which will operate within an A1 use class. The units are positioned on the eastern section of the existing building, and are proposed to measure 20 metres in width, 10 metres in depth and 5.6 metres in maximum height.

The east-facing elevation of the building will be finished in vertical treated timber stained in a grey colour, and will have a light grey polycarbonate cladded roof, as shown below:

Application Number

P/17/816/FUL



Scale 1:1,750

Date Issued:
20/04/2018

Development-Mapping
Tel: 01656 643176

Mark Shephard

Corporate Director-Communities

Communities Directorate,
Bridgend County Borough
Council, Civic Offices,
Angel Street,
Bridgend CF31 4WB.

O/Drive/Plandraw/new MI layouts/
Committee DC Plan

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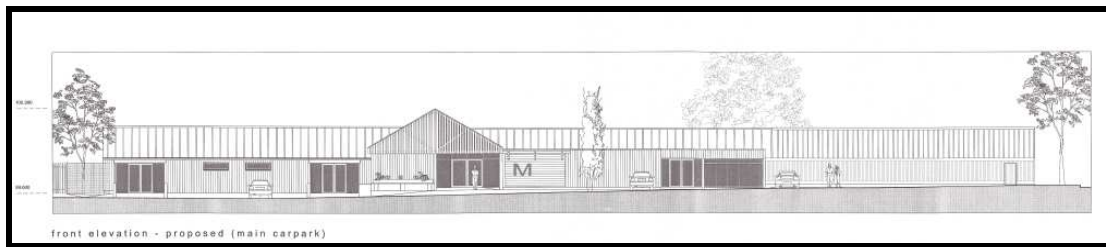


Figure 2

In addition to the above, the application proposes to erect a storage building in the south western corner of the application site. The building will serve as a ‘goods in’ storage facility, and will measure 10.5 metres in width, 12.5 metres in depth and 5.2 metres in maximum height. It will be finished with powder coated box-profile steel sheeted elevations and a cladded polycarbonate steel roof.

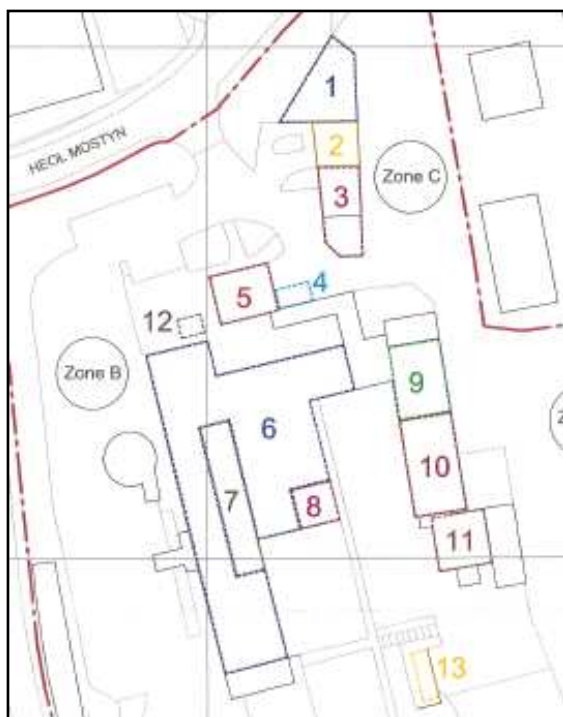
The application also proposes an alteration to the internal vehicular and pedestrian circulation of the application site by introducing a one-way system. The existing car park located to the east of the garden centre, as shown by ‘Zona A’ in Figure 1 above, will be extended, and an exit for vehicles will be created onto Village Farm Road.

SITE DESCRIPTION

The application site lies within the Main Settlement of Pyle, as defined by Policy PLA1 of Bridgend County Borough Council’s adopted Local Development Plan (2013). It is situated at the western-most point of Employment Site REG1 (36) *Village Farm Industrial Estate* which is allocated and protected for employment development falling within B1, B2 and B8 uses, and lies approximately 20 metres to the south of the Retail and Commercial Centre of Pyle.

The site’s western boundary lies adjacent to the A48 bypass road, whilst being positioned approximately 965 metres to the north of the M4 motorway. It is currently accessed via Heol Mostyn, which runs adjacent to the northern boundary of the application site.

The site comprises a relatively large garden centre complex with car parking allocation. The main building is ‘horseshoe’ shaped, and is predominantly occupied by the garden centre, which utilises 1,165 square metres of floor space. As shown in the diagram below, there are various ancillary uses currently operating within the main ‘n’ shaped building and in a separate unit to the north. Each unit is identified in the table below:



Unit Name	Area (m ²)
1. LouLou Salon	150
2. Priory Kitchens	70
3. LouLou Boutique	125
4. Paws Galore	25
5. Leaf Interiors	110
6. Garden Centre	1165
7. Cotton Traders	165
8. Select Heating	60
9. Olive Tree Café	145
10. Animal Emporium	190
11. Aqualogic	110
12. Dunraven	20
13. Main Office	30

The garden centre can be accessed from the existing entrances on the north, east and western elevations, from the three separate car parking areas.

The eastern area is set above the main garden centre, as the land slopes from west to east.

RELEVANT HISTORY

Application Reference	Description	Decision	Date
P/99/533/OUT	Redevelopment of retail outlet to class A1 foodstore fast food unit, petrol car wash, parking	Withdrawn	15/06/2001

PUBLICITY

This application has been advertised through direct neighbour notification and the erection of a site notice. The application was also advertised in the Glamorgan Gem newspaper published on 23rd November 2017.

No representations have been received within the consultation period which expired on 11th January 2018.

CONSULTATION RESPONSES

CONSULTEE	COMMENTS
Countryside Management 12 th October 2017	The applicant should submit a method statement so that the works proceed in a lawful manner that would not undermine protected species.
Land Drainage 12 th October 2017	Recommends the inclusion of the suggested planning conditions in view of the limited information submitted with the planning application.
Dŵr Cymru Welsh Water 16 th October 2017	No objection subject to the imposition of the recommended informative notes.
Public Protection 20 th October 2017	Advises the use of the 'unforeseen contamination' condition in accordance with CIEH best practice.
Transportation, Policy and Development 19 th April 2018	No objection subject to the inclusion of the recommended planning conditions.

RELEVANT POLICIES

The relevant policies and supplementary planning guidance are highlighted below:

Policy PLA1	Settlement Hierarchy and Urban Management
Policy SP2	Design and Sustainable Place Making
Policy SP3	Strategic Transport Planning Principles
Policy PLA11	Parking Standards
Policy ENV5	Green Infrastructure
Policy ENV6	Nature Conservation
Policy REG1	Employment Sites
Policy REG2	Protection of Identified Employment Sites

In addition, the Council has adopted a Supplementary Planning Guidance Note relating to Safeguarding Employment Sites (SPG21 – 17th June 2015). The SPG is a material

consideration in the determination of all planning applications for development which results in the loss of allocated employment land for non 'B Class' uses.

In the determination of a planning application, regard should also be given to the local 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:

Planning Policy Wales Chapter 3	Making and Enforcing Planning Decisions
Planning Policy Wales Chapter 4	Planning for Sustainability
Planning Policy Wales Chapter 7	Economic Development
Planning Policy Wales Chapter 10	Retail and Commercial Development
Planning Policy Wales TAN 4	Retail and Commercial Development
Planning Policy Wales TAN 12	Design
Planning Policy Wales TAN 23	Economic Development

APPRAISAL

This application is presented to the Development Control Committee as it does not fully accord with the criterion of Policy REG1 (36) of the LDP. Although applications for planning permission should be determined in accordance with the adopted Local Development Plan (2013), there are material considerations in this case that outweigh the policy conflicts which are considered in detail below.

PRINCIPLE OF DEVELOPMENT

Planning Policy Wales (Edition 9)(2016) stipulates at paragraph 7.1.3 that:

“the planning system should support economic and employment growth alongside social and environmental considerations within the context of sustainable development. To this end, the planning system, including planning policies, should aim to ensure that the growth of output and employment in Wales as a whole is not constrained by a shortage of land for economic uses. Local planning authorities should aim to facilitate the provision of sufficient land required by the market, except where there are good reasons to the contrary”.

The application site is located within *Village Farm Industrial Estate* which is allocated and protected for employment development falling within B1, B2 and B8 uses under Policy REG1 (36) of the Local Development Plan (2013).

Policy REG2 is intended to protect identified employment sites from proposals which result in the loss of existing or proposed employment (B1, B2 or B8) land or buildings on sites identified in Policy REG1. Exceptions will need to be justified on the following grounds:

*“1. In appropriate locations, a limited number of those uses regarded as complementary and/or ancillary to the main use of the land for industrial purposes; or
2. In appropriate locations, those sui generis employment uses which are suitable located on employment land”.*

The proposal is not strictly considered to be compliant with Policies REG1 (36) and REG2 of the Local Development Plan (2013). However, given that Pyle Garden Centre is an established retail facility and has operated as an A1 use class for a significant period of time without detriment to the allocated and identified employment site, the proposal is considered to be an appropriate form of development in this location which is in close proximity to the defined Pyle Retail Centre.

Whilst not strictly operating within a B1, B2 or B8 use class, Pyle Garden Centre generates an

employment facility within the Main Settlement of Pyle. The current proposal would introduce 14 full-time and 7 part-time roles, in addition to those existing, helping to promote the local economy.

The continued use of the application site for non B1, B2 or B8 uses will not fundamentally alter the nature of the *Village Farm Industrial Estate*, and as such it is argued that the economic benefits of the scheme outweigh the requirements of Policies REG1 (36) and REG2. The development is therefore considered to be acceptable.

DESIGN

Planning Policy Wales (Edition 9)(2016) (PPW) at paragraph 4.11.9 stipulates the following:

“the visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations”.

Policy SP2 of the Local Development Plan (2013) 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 proposed extension to the eastern section of the building, whilst large, represents an improvement to the existing facility (shown in the photographs below), and will enhance the slightly dilapidated area of the application site. In addition, this area is not highly visible from public vantage points.



The proposal is considered to be of an appropriate prominence within the application site, and will not be so detrimental to the visual appearance of the application site or wider industrial estate to warrant a refusal on such grounds. Therefore, the extension is considered to be appropriate from a design perspective, compliant with criterion (3) of Policy SP2 of the Local Development Plan (2013).

The erection of a building to provide a storage facility in the south western corner of the application site is considered to be a modest form of development that will not detract from the character or appearance of the area, in accordance with Policy SP2 of the Local Development Plan (2013). The building will not be visible from public vantage points, and is therefore considered to be of an appropriate prominence. The materials are designed to

AMENITY

Given the location of the additional retail units, the proposed development is not considered to impact the existing levels of amenity, and as such, no concerns are raised.

HIGHWAYS

The Transportation, Policy and Development Section acknowledge that, at peak periods, the junction of the A48 and Heol Mostyn operate at overcapacity, causing congestion on the A48. However, whilst the proposal may increase traffic on the highway network, it is considered not to have a material impact, given that trips are likely to take place outside of the peak periods.

The number of vehicular trips to the extended restaurant, coffee shop facility and retail concession units proposed is unlikely to increase the overall number of movements to and from the garden centre, as the trips would form part of a wider linked trip by existing customers. Customers already visiting the garden centre are likely to visit the extended restaurant, coffee shop facility and retail concession units proposed, and the amount of trips generated solely for the purpose of visiting the extended and new facilities are likely to be minimal and would be non-material to the highway network.

Notwithstanding the above, it is acknowledged by the applicant that congestion on the local highway network is a concern of The Highway Authority, and as such, has proposed a one-way system through the application site. Currently, the access to the site is off Heol Mostyn, where vehicles currently enter and exit the site. The proposed one-way system will see vehicles enter the site off Heol Mostyn, and exit via a new access point on the eastern boundary of the site, adjacent to Village Farm Road. It is considered that the one-way system will ensure pedestrians and vehicles do not come into conflict, which furthermore provides the benefit of removing the high risk of queuing out on the highway from the garden centre.

Subject to the imposition of the recommended planning conditions, the Transportation, Policy and Development Section consider that the proposal is acceptable from a highway safety perspective.

LAND DRAINAGE

The application is considered to be acceptable in terms of drainage subject to the imposition of a planning condition which recommends that no development shall commence on the site until a scheme which outlines a comprehensive and integrated drainage system is submitted to the Local Planning Authority.

ECOLOGY

In this instance, the Countryside Management Officer considered that it would not be necessary to request the submission of surveys in respect of protected species. It was recommended that the applicant be reminded of their legal requirements to consider wildlife on the development site, through the use of an informative note.

The Countryside Management Officer recommended that consideration be given to the provision of nest boxes within the development for bat and bird species. The applicant has demonstrated the inclusion of bat and bird boxes within the proposed area of development, and within the trees adjacent to the proposed extension. The incorporation of bat and bird boxes provides summer roosting opportunities for bats and would enhance the environmental sustainability of the development through the promotion of the resilience of ecosystems.

As such, the proposal is considered to be compliant with Policies ENV5 and ENV6 of the Local Development Plan (2013) which seeks to enhance Green Infrastructure and Nature Conservation, and is acceptable from an ecological perspective.

WELLBEING OF FUTURE GENERATIONS (WALES) ACT 2015

Section 3 of the Act 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 will be no significant or unacceptable impacts upon the achievement of wellbeing goals/objectives as a result of the proposed development.

CONCLUSION

The proposed development is considered to be appropriate in this location, despite being located within the allocated employment site under Policy REG1 (36) of the Local Development Plan. The economic benefits of the proposed scheme are considered to outweigh any policy conflicts, particularly given that Pyle Garden Centre has operated within an A1 use class for a significant period of time without detriment to the allocated and identified employment site.

The design of the proposal is considered to comply with Policy SP2 of the Local Development Plan (2013), and will offer the opportunity to improve the existing slightly dilapidated structure on the eastern side of the 'horseshoe' shaped building.

No concerns are raised which relate to neighbour amenity, and subject to the imposition of the recommended planning conditions, the proposal is considered to be acceptable from a land drainage and highway safety perspective.

The application is therefore recommended for approval.

RECOMMENDATION

That the Development Control Committee GRANT the proposed development, subject to the following condition(s):-

1. The development shall be carried out in accordance with the following drawing numbers:
 - "1721-PO8" received on 26th September 2017;
 - "1721-P01" received on 26th September 2017;
 - "1721-P04" received on 26th September 2017;
 - "1721-P07 A" received on 20th October 2017;
 - "1721-P05 A" received on 20th October 2017;
 - "1721-P06 A" received on 20th October 2017;
 - "1721-AC" received on 30th October 2017;
 - "1721-P10" received on 22nd December 2017.

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

2. Prior to the commencement of development, a method statement which outlines the timing of the works and demonstrates that they will not undermine protected species shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.

Reason: In the interests of protected species and biodiversity.

3. Prior to the commencement of development, 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, must be submitted to and approved in writing by the Local Planning Authority. The approved scheme must be implemented prior to the beneficial use of the development.

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

4. No development shall commence until a scheme for the provision of 111 off street parking spaces has been submitted to and agreed in writing by the Local Planning Authority. The parking area shall be completed in permanent materials with the individual spaces clearly demarcated in permanent materials in accordance with the approved layout prior to the development being brought into beneficial use and shall be retained for parking purposes in perpetuity.

Reason: In the interests of highway safety.

5. No development shall commence until a scheme of directional / no exit signage at the Heol Mostyn entrance, one-way signage between units 3 & 4 and no entry signage at the Village Farm Rd exit has been submitted to and approved in writing by the Local Planning Authority. The signage scheme shall be implemented before the development is brought into beneficial use and retained in perpetuity.

Reason: In the interests of highway safety.

6. No development shall commence until a Traffic & Delivery Plan has been submitted to and agreed in writing by the Local Planning Authority. All servicing and delivery vehicles movements to the store shall be made in accordance with approved Traffic & Delivery Plan once the development is brought into beneficial use and retained thereafter unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

7. No development shall commence until a scheme for the provision of a pedestrian footway from Heol Mostyn linking to the entrance and a pedestrian footway / shared use path linking the Village Farm Rd access to the entrance has been submitted to and approved in writing by the Local Planning Authority. The footpath shall be implemented in permanent materials before the development is brought into beneficial use and retained in perpetuity.

Reason: In the interests of highway safety and to promote sustainable travel modes to the development as part of the Active Travel (Wales) Act 2013.

8. No development shall commence until a scheme for the revised vehicular entrance off Heol Mostyn, to narrow the width of the bell mouth, which will ensure vehicles do not exit onto Heol Mostyn has been submitted to and approved in writing by the Local Planning Authority. The revised vehicular access shall be implemented in permanent materials before the development is brought into beneficial use and retained in perpetuity.

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

9. * THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS

This application is recommended for approval because the development complies with Council's policy and guidelines and does not adversely affect privacy or visual amenities nor so significantly harms neighbours' amenities as to warrant refusal.

British bats and their breeding sites and resting places are protected by law through UK legislation under the Conservation of Habitats and Species Regulations 2010 which implements the EC Directive 92/43/EEC in the United Kingdom and the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000). This legislation makes it an absolute offence to damage or destroy a breeding site or resting place (sometimes referred to as a roost, whether the animal is present at the time of not), intentionally or recklessly obstruct access to a place used for shelter and protection, or deliberately capture, injure, kill, or disturb a bat/bats.

Under the Wildlife and Countryside Act 1981 (Section 1) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built.

No surface water is allowed to discharge to the public highway.

No land drainage run-off will be permitted to discharge (either directly or indirectly) into the public sewerage system.

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, then a Discharge Consent under Section 118 of the Water Industry Act 1991 is required from Dŵr 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.

The applicant may need to apply to Dŵr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also confirm to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption" - 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

The applicant is also advised that some public sewers and lateral drains may not be recorded on Dŵr Cymru Welsh Water's maps of public sewers because they were originally privately owned and transferred into public ownership by nature of the Water Industry (Schemes for Adoption or Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. The applicant may contact Dŵr Cymru Welsh Water on 0800 917 2652 to establish the location and status of the sewer. Under the Water Industry Act 1991 Dŵr Cymru Welsh Water has rights of access to its apparatus at all times.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the Local Planning Authority, all associated works must stop, and no further development shall take place until a scheme to deal with the contamination found has been approved. An investigation and risk assessment must be undertaken and where remediation is necessary, a remediation scheme and verification plan must be prepared and submitted to the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to the Local Planning Authority.

Any topsoil (natural or manufactured) or subsoil to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to the Local Planning Authority in advance of its importation.

Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to the Local Planning Authority in advance of its importation.

MARK SHEPHARD
CORPORATE DIRECTOR COMMUNITIES

Background Papers

None

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APPEALS

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

CODE NO. A/18/3197583 (1821)

APPLICATION NO. P/17/906/FUL

APPELLANT MR GERALD EDWARDS

SUBJECT OF APPEAL PART CONVERSION OF EXISTING OUTBUILDING TO 1NO. HOLIDAY LET WITH ASSOCIATED EXTERNAL ALTERATIONS (RE-SUBMISSION): THE COPPINGS BRYNCETHIN BRIDGEND

PROCEDURE WRITTEN REPRESENTATION

DECISION LEVEL DELEGATED OFFICER

The application was refused for the following reason:

1. The proposed independent holiday let unit, by reason of its design, scale and location, would constitute overdevelopment as the site is too restricted to protect the existing residential amenities of the host dwelling and would not provide reasonable standard of amenity for future occupiers of the holiday let, which will have an extremely limited and poor outlook contrary to Policies SP2 and SP11 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 9, Nov. 2016).

CODE NO. A/18/3197583 (1822)

APPLICATION NO. P/17/1003/OUT

APPELLANT MR FRANCIS MCDONALD

SUBJECT OF APPEAL DETACHED 2 BEDROOM TWO STOREY DWELLING (RESUBMISSION OF PREVIOUS REFUSAL): 2 HEOL Y BERLLAN PYLE BRIDGEND

PROCEDURE WRITTEN REPRESENTATION

DECISION LEVEL DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposed dwelling, by reason of its proposed scale parameters, orientation and siting, would have an overbearing and overshadowing impact on the host property and would be overlooked by, and would overlook, adjoining properties, to the detriment of the residential amenities of existing and future residential occupiers, contrary to Policy SP2 of the Council's Local Development Plan (2013), Notes 1, 2 and 6 of the Council's Supplementary Planning Guidance Note 02: Householder Development (2008) and advice contained within Planning Policy Wales (Edition 9, Nov 2016).
2. The proposed dwelling, by reason of its proposed scale parameters and siting, constitutes an overdevelopment of the site that would not provide an adequate level of outdoor

amenity space for the occupiers of the host property (2, Heol y Berllan) or the future occupiers of the proposed dwelling, contrary to Policy SP2 of the Council's Local Development Plan (2013), Note 8 of the Council's Supplementary Planning Guidance Note 02: Householder Development (2008) and advice contained within Planning Policy Wales (Edition 9, Nov 2016).

3. Insufficient details in respect of the means of surface water drainage have been submitted to enable the implications of the proposal to be properly evaluated by the Local Planning Authority. As such the development could increase the flood risk to adjoining property.

CODE NO.	A/18/3197617 (1823)
APPLICATION NO.	P/17/1001/FUL
APPELLANT	MR B & MRS C THOMAS
SUBJECT OF APPEAL	INCLUSION OF AGRICULTURAL LAND WITHIN CURTILAGE OF DWELLING: LAND REAR OF 51 HIGH STREET LALESTON
PROCEDURE	WRITTEN REPRESENTATION
DECISION LEVEL	DELEGATED OFFICER

The application was refused for the following reasons:

1. The site lies in a rural area and the proposal which constitutes an undesirable and inappropriate form of development outside any existing settlement boundary and within a green wedge would be prejudicial to the character of the area in which it is intended that the existing uses of land shall remain for the most part undisturbed, would be contrary to established national and local planning policies and would set an undesirable precedent for further applications for similar development in this area, contrary to Policies PLA1, ENV1, and ENV2 (4) of the Bridgend Local Development Plan 2013 and the principles of Planning Policy Wales (Edition 9, 2016).
2. The proposed development by reason of its siting and nature, constitutes an undesirable and inappropriate form of development that would be detrimental to the character and appearance of the existing countryside, the surrounding Laleston Conservation Area and a Special Landscape Area contrary to Policies ENV1, SP2, SP5, and ENV3(7) of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 9, 2016).

CODE NO.	A/18/3197606 (1824)
APPLICATION NO.	P/17/999/FUL
APPELLANT	B FROST & S ROGERS
SUBJECT OF APPEAL	INCLUSION OF AGRICULTURAL LAND WITHIN CURTILAGE OF DWELLING: LAND REAR OF 53 HIGH STREET LALESTON
PROCEDURE	WRITTEN REPRESENTATION

DECISION LEVEL **DELEGATED OFFICER**

The application was refused for the following reasons:

1. The site lies in a rural area and the proposal which constitutes an undesirable and inappropriate form of development outside any existing settlement boundary and within a green wedge would be prejudicial to the character of the area in which it is intended that the existing uses of land shall remain for the most part undisturbed, would be contrary to established national and local planning policies and would set an undesirable precedent for further applications for similar development in this area, contrary to Policies PLA1, ENV1, and ENV2 (4) of the Bridgend Local Development Plan 2013 and the principles of Planning Policy Wales (Edition 9, 2016).
2. The proposed development by reason of its siting and nature, constitutes an undesirable and inappropriate form of development that would be detrimental to the character and appearance of the existing countryside, the surrounding Laleston Conservation Area and a Special Landscape Area contrary to Policies ENV1, SP2, SP5, and ENV3(7) of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 9, 2016).

CODE NO.	A/18/3197570 (1825)
APPLICATION NO.	P/17/1000/FUL
APPELLANT	MR T & MRS C GREEN
SUBJECT OF APPEAL	INCLUSION OF AGRICULTURAL LAND WITHIN CURTILAGE OF DWELLING: LAND REAR OF 55 HIGH STREET LALESTON
PROCEDURE	WRITTEN REPRESENTATION
DECISION LEVEL	DELEGATED OFFICER

The application was refused for the following reasons:

1. The site lies in a rural area and the proposal which constitutes an undesirable and inappropriate form of development outside any existing settlement boundary and within a green wedge would be prejudicial to the character of the area in which it is intended that the existing uses of land shall remain for the most part undisturbed, would be contrary to established national and local planning policies and would set an undesirable precedent for further applications for similar development in this area, contrary to Policies PLA1, ENV1, and ENV2 (4) of the Bridgend Local Development Plan 2013 and the principles of Planning Policy Wales (Edition 9, 2016).
2. The proposed development by reason of its siting and nature, constitutes an undesirable and inappropriate form of development that would be detrimental to the character and appearance of the existing countryside, the surrounding Laleston Conservation Area and a Special Landscape Area contrary to Policies ENV1, SP2, SP5, and ENV3(7) of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 9, 2016).

CODE NO. A/18/317614 (1826)
APPLICATION NO. P/17/439/FUL
APPELLANT MR SAM REES
SUBJECT OF APPEAL ERECT 3NO. DETACHED DWELLINGS AND ASSOCIATED WORKS: LAND ADJ TY GWYN HEOL Y GRAIG PORTHCAWL
PROCEDURE WRITTEN REPRESENTATION
DECISION LEVEL DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposed development, by reason of the number of units and their design, siting and scale, constitutes overdevelopment of the constrained site that fails to provide adequate levels of private outdoor amenity space for the future occupiers of the 5 bed dwellings, whilst having a significant detrimental impact on the privacy and residential amenities of the future occupiers of the proposed dwellings by way of overlooking. The proposed development is therefore contrary to Policy SP2 of the Bridgend Local Development Plan 2013, Supplementary Planning Guidance SPG02: Householder Development and advice contained in Planning Policy Wales (Edition 9, November 2016) and Technical Advice Note 12 – Design (2016).

CODE NO. A/18/3198111 (1827)
APPLICATION NO. P/17/891/FUL
APPELLANT MR F & H JANES
SUBJECT OF APPEAL TWO STATIC RESIDENTIAL GYPSY CARAVANS TOGETHER WITH THE ERECTION OF DAY / UTILITY ROOM, TWO TOURING CARAVANS AND RELOCATED ACCESS DRIVEWAYLAND AT THE FORMER PLAYGROUND FOUNTAIN TERRACE ABERKENFIG:
PROCEDURE WRITTEN REPRESENTATION
DECISION LEVEL DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposal, by virtue of its siting, layout design and scale, represents an incongruous, 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.9 (Nov,2016), TAN12-Design and Welsh Government Circular 30/2007 Planning for Gypsy and Traveller Caravan Sites (December 2007).

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

CODE NO. A/17/3186793 (1815)
APPLICATION NO. P/17/253/FUL
APPELLANT MR TERRY COX
SUBJECT OF APPEAL THE USE OF LAND FOR THE STATIONING OF A MOBILE HOME FOR RESIDENTIAL PURPOSES
LAND AT MINFFRWD LAKES, RHIWCEILIOG, PENCOED
PROCEDURE HEARING
DECISION LEVEL DELEGATED OFFICER
DECISION THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE ALLOWED SUBJECT TO CONDITIONS

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

An application for costs was made by the applicant but refused. A copy of the decision is attached as **APPENDIX B**

CODE NO. A/17/3187606 (1818)
APPLICATION NO. P/17/507/FUL
APPELLANT MR & MRS D HOPKINS
SUBJECT OF APPEAL PROPOSED KENNELS & CATTERY & TEMPORARY DWELLING:
TY RISHA FARM, PEN Y CAE, PENYFAI
PROCEDURE HEARING
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**

RECOMMENDATION:

That the report of the Corporate Director Communities be noted.

MARK SHEPHARD
CORPORATE DIRECTOR COMMUNITIES
Background Papers (see application reference number)



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 12/01/18
Ymweliad â safle a wnaed ar 12/01/18

gan Richard E. Jenkins BA (Hons) MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 09/03/18

Appeal Decision

Hearing Held on 12/01/18
Site visit made on 12/01/18

by Richard E. Jenkins BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers
Date: 09/03/18

Appeal Ref: APP/F6915/A/17/3186793

Site address: Minffrwd Lakes, Minffrwd Road B4280 Junction to A4093 via Rhiwceiliog and Mynydd y Gaer, Rhiwceiliog, Bridgend, CF35 6NT

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 Terry Cox against the decision of Bridgend County Borough Council.
 - The application Ref: P/17/253/FUL, dated 16 March 2017, was refused by notice dated 13 June 2017.
 - The development proposed is the use of land for the stationing of a mobile home for residential purposes.
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Decision

1. The appeal is allowed and planning permission is granted for the use of land for the stationing of a mobile home for residential purposes at Minffrwd Lakes, Minffrwd Road B4280 Junction to A4093 via Rhiwceiliog and Mynydd y Gaer, Rhiwceiliog, Bridgend, CF35 6NT in accordance with the terms of the application, Ref: P/17/253/FUL, dated 16 March 2017, and the plans submitted with it, subject to the following conditions:
 - 1) The occupation of the site hereby permitted shall only be by the following:
Mr Terry Cox.
 - 2) When the land ceases to be occupied by those named in condition No.1 the use shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.

Application for costs

2. An application for costs has been submitted by the appellant against Bridgend County Borough Council. This application is the subject of a separate decision.

Procedural Matters

3. The development has already been carried out. As such retrospective planning permission is sought under Section 73A(2)(a) of the Act.
 4. The Council has raised concern that incorrect ownership certificates have been served. In short, Certificate A was submitted at the planning application stage although,
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having found out that a small parcel of land at the entrance to the appeal site was not in the appellant's ownership, a signed Certificate D was completed with all necessary advertisements undertaken. However, the LPA considers that this was also procedurally incorrect, contending that Certificate C would have been the most appropriate certificate given that the appellant knew some, but not all, of the owners of the land in question. Nevertheless, the Inspectorate has the discretion to accept appeals in such circumstances and I am satisfied that no prejudice has been caused by the procedures undertaken. Indeed, in response to such concerns, the LPA formally consulted the owners of the land in question. It is on this basis that the Council acknowledges that nobody has been disadvantaged by the processes undertaken and I have no reason to dispute such an assessment.

5. Given the extent of the personal circumstances advanced, the appellant contends that a personal planning permission should be granted. The appeal is supported by uncontested medical evidence that indicates that Mr Cox has significant and degenerative health problems and it is on this basis that I shall consider the appeal.

Main Issues

6. These are: whether the principle of development is justified, having particular regard to the planning policy framework set both locally and nationally; the effect of the proposed development upon the character and appearance of the area; and whether there are any material considerations that outweigh any identified harm.

Reasons

7. The appeal relates to an irregular shaped parcel of land located to the south east of Minffrwd Road near Rhiwceiliog, Pencoed. The site shares an access with the adjacent Minffrwd Stables, which comprises an authorised gypsy and traveller site, and is bordered to the east by mature woodland. To the south of the site lie ponds associated with planning application Ref: P/08/970/FUL which granted planning permission in 2009 for the use of the land in association with a fishery business. The appeal proposal seeks planning permission for the change of use of the land to enable the stationing of a mobile home for residential purposes. The evidence indicates that the mobile home was brought onto the site within the last year, although the fact that the appellant has lived on the site in a motorhome since around 2010 is not contested. The mobile home in question has been specifically designed and adapted to meet the appellant's medical needs.

Principle of Development/ Character and Appearance

8. The appeal site is located outside of the settlement boundaries defined by the adopted Bridgend Local Development Plan 2006- 2021 (2013) (LDP) and is therefore located within countryside for the purposes of planning. Policy ENV1 of the adopted LDP advocates strict control within such areas and there is nothing submitted within the evidence to indicate that the development satisfies the criteria of that policy which provides for a number of circumstances where development may be acceptable in such countryside locations.
9. The appellant contests that the adopted LDP is outdated and that such strict control of development should only be applied in areas of '*open countryside, away from established settlements*', as referred within Planning Policy Wales (Edition 9, 2016) (PPW)¹. However, the adopted LDP remains the adopted development plan for the

¹ Paragraph 9.3.6

area and I have not seen anything to indicate that the implications of its approach to development in the countryside are materially different to those of PPW when applied to the circumstances of this case. Indeed, despite the proximity of the appeal site to established residential uses and the nearby woodland, I was able to confirm at the time of my site visit that it retains open characteristics. In addition, I have already set out above that the site does not lie within an established settlement and neither does it adjoin any settlement boundaries identified within the LDP. Within this context, and bearing in mind the fact that the site is not served by a pedestrian footpath, I consider the site to be both physically and functionally separated from nearby settlements and therefore away from established settlements for the purposes of applying national policy. Furthermore, whilst I shall go on to consider the weight to be attributed to the appellant's personal circumstances later in this decision, it is notable that the development is not proposed as a rural enterprise dwelling or any other form of development that comprises a policy exemption to the strict control of development in such locations.

10. In terms of the effect on the character and appearance of the area, it is not disputed that the landscape characteristics of the site are neither prominent nor visible from medium to longer term viewpoints. The context set by the land uses in the vicinity is also clearly an importance consideration. Nevertheless, despite such mitigating factors, the proposed use encroaches into what is lawfully an area of countryside and there is little doubt that the introduction of a mobile home, and the residential paraphernalia associated with the residential use of the land, injuriously alters the rural character and general appearance of the site itself. Moreover, despite being largely screened from public vantage points, the change of use clearly serves to intensify the number of residential uses in the area, to the detriment of the rural character of the wider countryside.
11. For these reasons, I find the incursion into the countryside to be unjustified by both adopted development plan and national planning policy. I also find that it causes material harm to the character and appearance of the area. As such, the development conflicts with the general thrust of both Policy ENV1 of the adopted LDP and national planning policy which, amongst other things, seek to strictly control development in such locations.

Personal Circumstances and Other Material Considerations

12. I have already set out above that the appeal is supported by uncontested medical evidence that indicates that Mr Cox has significant and degenerative health problems. I have no reason to dispute or bring into question the severity of such problems. The mobile home on site has already been adapted to meet the appellant's health needs and the Council has confirmed that alternative accommodation that would meet such needs is not currently available. Given these circumstances, the LPA has stated that Mr Cox would be given priority over other people on the housing waiting list. However, the Council has been unable to specify how long such a process would take and, given the appellant's very specific accommodation requirements, there is a reasonable likelihood that such a process could be far from imminent. I recognise the fact that it would be at the discretion of the Council to consider whether it would be expedient to take enforcement action should planning permission be withheld. However, there is no doubt that such uncertainty could have a significant detrimental impact on Mr Cox's well-being and general health. Such matters merit substantial weight in the planning balance.
13. Mr Cox is a keen naturalist and has lived at the site with his animals since 2010. The medical evidence supporting the appeal indicates that the tranquil and serene

environment, coupled with the ability to observe wildlife, aids his levels of relaxation and can therefore impact on overall condition and pain management. Indeed, the Council's own Community Independence and Wellbeing Team has specified that such an environment greatly enhances his overall quality of life. Whilst I have not seen anything to indicate that such a location is an absolute necessity for the appellant, such health benefits clearly add to the aforementioned considerations.

14. Whilst regrettable, it is also material to note that the medical evidence supporting the appeal indicates that Mr Cox's condition is aggressive and that his health will progressively deteriorate. This means that the number of years that he would be able to live at the site is likely to be limited. In this respect, and bearing in mind the fact that the proposal is for the use of land, rather than operational development, it is important to note that any personal planning permission would also render the permission, and indeed any harm that would arise from such a use, as temporary. I consider such a factor to weigh heavily in favour of the proposal. I shall deal specifically with the imposition of planning conditions below. However, I am satisfied that such matters could be satisfactorily dealt with by such means, including a requirement for the land to be restored once the use ceases.
15. I have found above that the change of use of the land conflicts with both local and national planning policies that seek to direct development towards established settlements. However, in order to fully assess the weight to be attached to such policy conflict, it is important to appreciate the context set by the appellant's personal circumstances. There is no doubt that the residential use of the land would require the frequent use of a private car and in this respect it would be contrary to the general thrust of national policy. Indeed, the site is not well served by public transport and neither is it accessible by a segregated pedestrian footway. Nevertheless, given the fact that the appellant's medical condition renders him immobile, and the use of public transport therefore impracticable, I do not consider such matters to weigh substantially against the proposal. Indeed, given the fact that a number of facilities and services, including the local Medical Centre, are only located approximately two kilometres away, I do not consider the site to be remote from such amenities as referred within the Council's Notice of Decision.

The Planning Balance

16. I have found that the proposed development would run counter to the general thrust of both national and local planning policies that seek to direct development to established settlements. I have also found that the change of use of the land would cause harm to the character and appearance of the area. However, I consider that the weight to be attached to such policy conflict and associated harm should be reduced significantly given the aforementioned mitigating factors. In contrast, the personal circumstances advanced in favour of the proposal are compelling and merit substantial weight in the planning balance. Indeed, such personal circumstances significantly outweigh the identified conflict with policy and associated harm to the character and appearance of the area.
17. The refusal of planning permission and any future eviction that could lead from such a decision would undoubtedly result in an interference with the appellant's right to respect for private and family life and for the home, and to the peaceful enjoyment of their possessions, as enshrined in Article 1 and Article 8 of Protocol 1 of the European Convention on Human Rights and incorporated into the Human Rights Act 1998. Whilst I acknowledge that these rights are qualified, I have concluded that the harm identified would be clearly outweighed by the personal circumstances and other material considerations advanced as part of the appeal. I therefore find that the

refusal of planning permission would have an excessive and disproportionate effect on the appellant's interest.

18. The Council has raised concern that allowing this appeal would set a precedent for future cases. However, it is well established in law that each case should be treated on its own particular merits and, for the avoidance of any doubt, the success of this case has been based on its unique set of circumstances. As any future proposals should also be treated on their own particular merits, I do not consider such concerns to merit significant weight.

Overall Conclusions

19. Based on the foregoing, and having considered all matters raised, I conclude that the appeal should be allowed subject to necessary and appropriate planning conditions.
20. In coming to this conclusion, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

Planning Conditions

21. I have considered the suggested conditions and, having had regard to the advice in Welsh Government Circular 016/2014: *The Use of Planning Conditions for Development Management* (October 2014), have adjusted their wording in the interest of clarity and precision.
22. As retrospective planning permission is sought, I do not consider the standard time commencement condition to be necessary. However, as the justification for the development is specific to the personal circumstances of the appellant, I consider suitable conditions to be necessary. Specifically, Condition No.1 would tie the planning permission to the appellant whilst Condition No.2 would ensure that the use would cease once the appellant ceases to occupy the land, with a specific requirement for the land to be restored to its condition before the development took place.
23. I note the Council's concerns regarding the enforceability of such conditions. However, having regard to the advice within Circular 016/2014, I am satisfied that the conditions imposed meet the tests of national policy. I have considered the possibility of imposing a planning condition restricting the planning permission to a time limited period, as suggested by the LPA. However, as it is not possible to predict when circumstances would change, I consider a temporary planning permission controlled by the personal circumstances of the appellant, as specified by Condition No.2, to be the most appropriate means of control.

Richard E. Jenkins

INSPECTOR

APPEARANCES:

FOR THE APPELLANT:

Mr Terry Cox	Appellant
Mr Matthew Green	Agent – Green Planning Solutions
Ms Ugne Staskauskaite	Green Planning Solutions
Mrs Jude Coad	Carer to the Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Richard Matthams	LPA – Policy Team Leader
Ms Elizabeth Woolley	LPA - Development Management – Case Officer
Ms Amanda Borge	LPA - Appeals Officer

INTERESTED PERSONS:

Cllr Alex Williams

DOCUMENTS:

- 1 LPA – Letter of Notification – Hearing Details
- 2 LPA – Response to Appellant’s Application for Costs
- 3 Mr Terry Cox – Witness Statement
- 4 Appellant – Medical Records
- 5 Hearing Record of Attendance

Penderfyniad ar gostau

Gwrandawriad a gynhaliwyd ar 12/01/18
Ymweliad â safle a wnaed ar 12/01/18

gan Richard E. Jenkins BA (Hons) MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 09/03/18

Costs Decision

Hearing Held on 12/01/18
Site visit made on 12/01/18

by Richard E. Jenkins BA (Hons) MSc MRTPI

An Inspector appointed by the Welsh Ministers
Date: 09/03/18

Costs application in relation to Appeal Ref: APP/F6915/A/17/3186793

Site address: Minffrwd Lakes, Minffrwd Road B4280 Junction to A4093 via Rhiwceiliog and Mynydd y Gaer, Rhiwceiliog, Bridgend, CF35 6NT

The Welsh Ministers have transferred the authority to decide this application for costs to me as the appointed Inspector.

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
 - The application is made by Mr Terry Cox for a full award of costs against Bridgend County Borough Council.
 - The hearing was in connection with an appeal against the refusal of the Council to grant subject to conditions planning permission for the use of land for the stationing of a mobile home for residential purposes.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Welsh Government (WG) guidance relating to an award of costs, in the form of the WG Development Management Manual (DMM) and the associated Section 12 Annex: 'Award of Costs' (May 2017) (Annex 12), advises that irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for an award of costs to incur unnecessary or wasted expense in the appeal process.
 3. The appellant contends that an award of costs is justified on the basis that the LPA:
 - i) Prevented or delayed the development which should clearly be permitted, having regard to the development plan, national policy and any other material considerations;
 - ii) Refused permission on a ground clearly capable of being dealt with by way of conditions; iii) Failed to adequately assess the sites location in terms of distances from services and facilities; and iv) Failed to adequately assess the sites impact on the character and appearance of the area. Specifically, it is contested that the Council's conduct amounts to unreasonable behaviour for the purposes of implementing Annex 12 of the DMM and that it resulted in unnecessary costs associated with the planning appeal.
 4. I am satisfied that the LPA satisfactorily considered the proposal within the light of the planning policy framework set by the adopted development plan and national policy. I am also satisfied that it assessed the impact of the proposed development in terms
-

of its distances from facilities and services and the overall impact on the character and appearance of the area. Indeed, the conclusions of the appeal decision partially support the Council's conclusions on such matters. It is notable that I have concluded that the identified conflict with policy and the associated harm is outweighed by the other material considerations advanced as part of the appeal submission. However, the weight to be attributed to such factors is a matter for the decision maker and, in this respect, I am satisfied that the Council was entitled to come to the conclusion that planning permission should be refused in accordance with the reasons set out in its Notice of Decision.

5. I note the appellant's concerns about the way the LPA approached the potential use of planning conditions. Indeed, I have set out my thoughts on such a matter in some detail in the associated appeal decision and have found in favour of the appellant. Nevertheless, the Council's concerns about its ability to impose the conditions suggested by the appellant did not form part of the Council's reason for refusal. Indeed, it is clear from the evidence that the Council fundamentally objected to the principle of development and its impact upon the character and appearance of the area. As such, I do not consider that unnecessary or wasted expense has arisen from this matter alone. In coming to this conclusion, I am mindful of the fact that it is standard practice for the imposition of planning conditions to be considered in full as part of any planning appeal.
6. Based on the foregoing, I find that unreasonable behaviour that has led to unnecessary or wasted expense in the appeal process has not been satisfactorily demonstrated and that neither a full or partial award of costs is justified in this case.
7. The application for an award of costs should therefore be refused.

Richard E. Jenkins

INSPECTOR

Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 30/01/18
Ymweliad â safle a wnaed ar 30/01/18

**gan Melissa Hall BA(Hons), BTP, MSc,
MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 22/03/18

Appeal Decision

Hearing Held on 30/01/18
Site visit made on 30/01/18

**by Melissa Hall BA(Hons), BTP, MSc,
MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 22/03/18

Appeal Ref: APP/F6915/A/17/3187606

Site address: Ty Risha Farm, Pen y Cae, Penyfai, Bridgend CF32 9SN

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 & Mrs D Hopkins against the decision of Bridgend County Borough Council.
 - The application Ref P/17/507/FUL, dated 11 June 2017, was refused by notice dated 7 August 2017.
 - The development proposed is described as '*Kennels and cattery and temporary dwelling*'.
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Decision

1. The appeal is dismissed.

Procedural Matters and Background

2. The site address shown on the application form differs from that detailed in the appeal form insofar as the former refers to '*Ty Risha Farm, Pen y Cae, Penyfai...*' whereas the latter identifies the site as '*Land at Ty Risha, Penyfai...*' I am satisfied that both refer to the same site, albeit I have used that shown on the planning application form and used in the Council's decision notice for the purposes of my Decision.
 3. At the Hearing, I was provided with a copy of the proposed elevations and floorplan of the temporary log cabin dwelling, on which the Council based its decision. The drawing is inaccurate insofar as the north and south elevations are incorrectly annotated and the doors to the living room are shown in a different position on the elevations to that of the floorplan. I have taken into account the inaccuracies in assessing the proposal and I am satisfied that this matter could be dealt with by condition in the event of planning permission being granted.
 4. The Council stated that it believed the lawful use of the site to be agriculture and that no planning permission exists for any other use or for any buildings on the site. The appellants told me that the land was being used for agricultural purposes to graze sheep and that horses had been kept on the land. There are two existing buildings and a steel container on the site together with a stone wall within the site which I am told was constructed to keep the sheep contained.
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5. The development the subject of the appeal consists of two elements; the first is a new enterprise consisting of a kennels and cattery and the second is a temporary dwelling in association with the enterprise. At the Hearing, the parties agreed that the rural enterprise and rural enterprise dwelling are inherently linked, and should be considered as a single proposal rather than split into separate components.

Matters Arising after the Close of the Hearing

6. Both parties were given additional time to deal with matters associated with the risk of flooding to the access road leading to the site. The appellant submitted a Flood Consequences Assessment Supplementary Report, in respect of which the Council has provided further observations from Natural Resources Wales (NRW). This matter is dealt with later in my Decision.

Main Issues

7. The main issues are:
- Whether the proposal is inappropriate development in the green wedge and, if so, its effect on openness.
 - Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very exceptional circumstances necessary to justify the development.
 - Whether there is an essential need for a dwelling to accommodate a rural worker.
 - The effect on the character and appearance of the area.
 - Whether the proposal would promote sustainable development.
 - The effect of the development on highway safety.
 - Whether the site can offer safe conditions because of the risk from flooding.

Reasons

Inappropriate development in the green wedge

8. The appeal site lies to the north east of the village of Penyfai and immediately south of the M4, and within the Penyfai and Aberkenfig green wedge as defined by Policy ENV2 (8) of the adopted Bridgend Local Development Plan 2013 (LDP).
9. The development plan policy largely follows the advice in national guidance in Planning Policy Wales (PPW), which advises that inappropriate development in the green wedge is, by definition, harmful to the green wedge and should not be approved except in very exceptional circumstances¹. It states that the construction of new buildings in a Green Belt or in a locally designated green wedge is inappropriate development unless it is for purposes including justified rural enterprise needs.
10. Technical Advice Note 6 '*Planning for Sustainable Rural Communities*' (TAN 6) identifies qualifying rural enterprises in relation to new rural enterprise dwellings as those comprising land related businesses including agriculture, forestry and other activities that obtain their primary inputs from the site². The accompanying TAN 6 Practice Guide '*Rural Enterprise Dwellings*' (TAN 6 Practice Guidance) acknowledges

¹ Paragraph 4.8.15 of PPW.

² Paragraph 4.3.2 of TAN 6.

that there have been cases where *'dwellings associated with other uses that are not readily located in urban or residential areas have been permitted or allowed on appeal, such as dwellings associated with substantive equine and fishery enterprises, kennels, catteries and veterinary facilities'*³ [my emphasis].

11. Whilst TAN 6 and its Practice Guidance make reference to qualifying land based activities for the purposes of assessing new dwellings associated with such uses, it is nonetheless helpful in establishing the types of activities that could constitute a rural enterprise.
12. The Council accepts that a kennels and cattery could constitute a rural enterprise and, to this end, acknowledges that position taken in appeal Ref APP/G6935/A/13/2205180 at Wentwood Lodge Kennels and Stables. In allowing the appeal, the Inspector concluded on the basis of the evidence and his own observations, that the existing breeding kennels was *'... a sizeable rural enterprise with about 17 staff involved in various capacities'*.
13. However, the Council argues that the appeal decision relates specifically to a rural enterprise which is a sizeable operation and, in comparison, that proposed is not *'substantive enough'* to constitute a new rural enterprise.
14. It seems to me that kennels and a cattery each accommodating up to 20 animals at any given time, is not an insignificant number. The amount of noise and disturbance that is likely to be created by barking dogs in the kennels and the associated use of an outside exercise area / run would, in my opinion, place this use outside that which could be reasonably incorporated into a residential area without adversely affecting the amenities of its residents, notwithstanding the Council's arguments on this point. The Council could not quantify the size of enterprise beyond which it considers such a use would be inappropriate in a residential area. It pointed to the list of kennels and catteries provided by the appellants which, it states, shows a number of successful businesses operating in such environments in the wider Bridgend area. Be that as it may, I cannot be certain that the existing businesses are of the same model as that the subject of the appeal or of the capacity each one offers.
15. In the case before me, I am aware that specialist gun dog training would be carried out with some of the boarding dogs which involves, in part, teaching the animals to behave appropriately around the livestock which are on the site. Based on the appellants' oral evidence at the Hearing, I concur that this element of the scheme is not conducive to a site in, for example, a residential or employment area where there is no livestock or where it would involve potentially extensive and regular travel with the animals to a pre-arranged location before this training could be carried out. I understand from the appellants that an arrangement with a farmer to enter his land and use his livestock for the purposes of such training would be highly unorthodox and unlikely. I am of the opinion that the space needed and the nature of its use would be appropriate in a countryside location.
16. I am also told that the use would generate a projected income of £80,000 in 3 years, which the appellants contend represents a considerable and substantive enterprise.
17. In view of the above, I consider that the proposed kennels and cattery would constitute a rural enterprise for which a rural location is justified in line with TAN 6. In this context, the construction of new buildings consisting of the kennels and cattery in

³ Paragraph 2.5 of the TAN 6 Practice Guidance.

the green wedge for purposes relating to rural enterprise need would not be inappropriate development as described in PPW.

18. However, as detailed above, there is a second component to the proposal consisting of the temporary dwelling. To reach a view as to whether it is inappropriate development in the green wedge, it is necessary to consider whether there is a justified rural enterprise need for the dwelling. I carry out this assessment below.

Rural Enterprise Dwelling

19. PPW states that isolated houses in the open countryside require special justification, for example where they are essential to enable rural enterprise workers to live at or close to their place of work in the absence of nearby accommodation⁴. The special justification needed is based on testing the functional needs and economic sustainability of the enterprise concerned.
20. The TAN 6 Practice Guidance states that proposals for new rural enterprise dwellings should be tested in a number of ways, including the Functional Test, the Time Test, the Financial Test and the Alternative Dwelling test⁵. TAN 6 is clear that in order to demonstrate that a new dwelling is essential to support a new rural enterprise, it must satisfy a number of criteria [my emphasis]. These are examined in turn below.

Firm intention and ability to develop the enterprise

21. The TAN states that significant investment in new buildings and equipment is often a good indication of intentions. The Planning Appraisal submitted in support of the application states that an initial sum of £5,000 would be invested in livestock⁶, which the appellants contend is tantamount to firm intent and an ability to develop the enterprise.
22. The Council argues that the Appraisal is limited and does not provide any other information relating to the initial start-up costs, such as the costs of the kennels and cattery buildings, which it considers would more realistically equate to a figure in the order of £30,000 - £40,000. Whilst it notes that the appellants claim to already have the materials to construct these buildings, and a commitment to undertake the construction works themselves, it questions whether the available funds are sufficient to undertake the work necessary to start-up and develop the enterprise. In any event, a heavy reliance on the sale of their existing dwelling in order to release the equity and fund the works adds to the Council's concerns, particularly as the house is not yet on the market.
23. I do not dispute the appellants' intentions insofar as there is a clear desire to start the enterprise. Nevertheless, I am not persuaded on the basis of the submitted evidence that an initial investment of £5,000 and Mr Hopkins' labour⁷ sufficiently demonstrates an ability to develop the enterprise. I am concerned that the Planning Appraisal is silent on a number of costs that could be associated with the start-up and running of a new business, and which could seriously affect the appellants' ability to carry out the works on which the success of the business would depend. Neither is there evidence before me to confirm that the equity anticipated by the sale of the appellants' existing

⁴ Paragraph 9.3.6 of PPW.

⁵ Paragraph 3.3 of the TAN 6 Practice Guidance.

⁶ At the Hearing the appellants confirmed that the £5,000 investment in livestock refers to the provision of the kennels and catteries buildings.

⁷ I accept that the cost of carrying out the works would be comparatively less where the labour is being undertaken by the appellants rather than a paid tradesman.

dwelling is a realistic amount, that it will be achieved or even that the property will sell. Hence, I cannot conclude that the appellants have demonstrated an ability to develop the enterprise.

Need for the new enterprise at the proposed location

24. For the reasons I have already given, I consider that the proposed location is justified for a new enterprise of the nature proposed and that it would not be appropriate in a residential area as suggested by the Council. Neither have I been provided with details of properties for sale in the vicinity which meet the needs of the enterprise, which suggests that there are no other suitable sites where a dwelling is already available. I thus consider that this test has been met.

Financial Test

25. The TAN seeks clear evidence that the proposed enterprise has been planned on a sound financial basis and should have good prospects of remaining sustainable for a reasonable period of time⁸. It recognises that for new enterprises evidence of sound financial planning is required, which would normally be in the form of a business plan [my emphasis].
26. The appellants have submitted a 3 Year Budget in support of the application. Amongst other things, it shows that in the first 3 years the net profit after depreciation is forecast to increase by £33,514 from £20,902 to £54,416 based on growth in all income streams of the business. In the third year the business is projected to have a net profit that is high enough to cover Mrs Hopkins' wages (as a full-time worker) and the mortgage repayments for a permanent dwelling. It anticipates that the permanent dwelling would cost £150,000 to build and that the enterprise would have an operating profit each year high enough to cover mortgage repayments.
27. However, I am not persuaded that the budget plan comprehensively and robustly tests the costs of the services, the market conditions and the means of establishing the enterprise in labour and financial terms. Whilst a general figure has been put to 'Overhead costs' in the Budget Plan, I do not know exactly what these costs include or how they have been derived. Nor has the proposal received endorsement from any financial institution. Whilst the appellants assert that the budget demonstrates that the business has a realistic prospect of remaining financially sound, I am concerned that the budget anticipates that the kennels and cattery are likely to be full for a large proportion of the year in the third year and that there would be three training dogs a month (each for a 14 day period) in the third year. I also cannot say with any degree of certainty that the income from the sale of puppies is realistic, either in terms of the number of puppies being born or the price of each one. There is little assessment of the fall in income or increase in costs over a period of time in which the viability of the business could be under threat. I am not satisfied that the forecast growth is achievable, as I have no substantive evidence that supports this claim.
28. I am also concerned that any further investment in the business beyond the £5,000 initial outlay would depend heavily on the sale of the appellants' current dwelling, which is not currently on the market, the sale of which may or may not occur within a reasonable timescale or at the price anticipated. Hence the ability of the appellants to properly invest in the enterprise from the date of the permission is questionable and has the potential to seriously jeopardise its future.

⁸ Usually 5 years, albeit the appellants have sought a temporary dwelling for a period of 3 years and consequently, the budget plan is reflective of this shorter time period.

29. The appellants state that in the event of their existing property not selling, there is the option of taking out a bridging loan to fund the enterprise in the interim period. However I am not aware whether this is a realistic option available to the appellant, the interest rates that would be incurred as a consequence or whether the profit from the business would be sufficient to cover the additional costs.
30. I acknowledge the appellants contention that how the capital is raised to fund the works is not the concern of the LPA nor does the TAN require proof of the funds to be provided. Be that as it may, in assessing the proposal, there is a responsibility to ensure that the proposed enterprise has been planned on a sound financial basis. Clear evidence that sufficient funds have been secured and are available would inevitably assist the appellants' case in this regard.
31. In view of the above, I am not persuaded that the enterprise has been planned on a sound financial basis.

Functional Test

32. A functional need relates to a specific management activity or combination of activities which require the presence of a worker at most times if the proper functioning of an enterprise is not to be prejudiced. The appellants tell me that the need for one worker to be readily available at most times relates to the following principal areas of the business; to enable owners to deliver and collect the animals outside normal working hours and at weekends, to tend to the boarding dogs and cats in their care, for gun dog training purposes and to be on-site during whelping. The appellants also identify security as a second consideration insofar as there would be a high risk of theft of animals and, in particular, puppies of high monetary value if there were no on-site presence.
33. In this context it seems to me that the nature of the business is such that it would require close human attention and an on-site presence would be necessary for the business to function properly. It would require a worker to be available at times when unexpected situations might arise outside of normal working hours. However, rural enterprise dwellings should only be permitted where the scale and nature of an enterprise give rise to substantive labour requirements⁹. The question therefore arises as to whether this need relates to a requirement for a full time worker.
34. The appellants state that it is difficult to quantify the number of hours that the business would require as figures for managing kennels, raising puppies and gundog training are not readily available. However, they assert that having 40 dogs and cats to look after clearly demonstrates that the business meets the full-time test. In Appendix A of the Planning Appraisal, an attempt has been made at quantifying the time commitment: It anticipates exercising each dog for approximately half an hour equating to 10 hours a day and a further 2 hours a day on feeding and cleaning out. However, I am not certain that each dog would be exercised daily on a one-to-one basis, that a portion of those hours would not be supervised group access of the run / outside area or that the kennels would be full to capacity. There is no time estimate of, for example, the training of gun dogs or raising puppies.
35. In the absence of a robust assessment of the component parts of the enterprise and the amount of time apportioned to each part, together with consideration of alternative operational and management strategies that may be available to the enterprise, there is little evidence to substantiate the appellants' claims not least due

⁹ Paragraph 4.9 of the TAN 6 Practice Guidance.

to the high bar set to justify a dwelling at this location. Whilst I accept that it may not be possible to adopt a degree of standardisation in assessing labour requirements, it is simply not enough to assert that the business would meet the full-time test without any compelling evidence of how those full-time hours would be derived. Thus, I am not persuaded that, on the basis of the evidence before me, the time test has been met in this regard.

Other dwelling

36. The TAN also requires that the functional need could not be fulfilled by another dwelling or by converting an existing suitable building on the enterprise, or any other existing accommodation in the locality. It is evident that there are no other dwellings or buildings on the holding that would be suitable to house a worker.
37. The appellants state that there are 8 properties within a mile of Ty Risha that are for sale, seven of which are at least £250,000. The property for sale that is less than £150,000 is at least a mile from the proposed dwelling. There are no properties to rent in Pen-y-Fai. I cannot be certain on what basis the search for an 'Other Dwelling' has been carried out and whether it is reflective of all properties currently on the market. However, it would appear that none of the dwellings cited would be suitable.
38. I accept that the TAN allows for situations where the case for a dwelling is not completely proven by stating that it may be appropriate to test the evidence by granting permission for temporary accommodation for a limited period; as is the case here, the proposal is for a temporary dwelling. Nevertheless, I am not satisfied that the time test or the financial tests have been met or that the appellants can demonstrate an ability to develop the enterprise. Neither am I convinced that the submitted evidence is sufficiently robust to indicate a realistic prospect of them doing so within a 3 year period. It would therefore be inappropriate to grant permission for a temporary dwelling in this case.
39. Consequently, taking all the above into account I conclude that an essential need for a dwelling to accommodate a rural worker has not been demonstrated and the development is not justified. It therefore follows that the dwelling is not necessary to meet the needs of a rural enterprise and is tantamount to inappropriate development in the green wedge as described in PPW.

Effect on Openness

40. PPW states that the purpose of a green wedge is *inter alia* to prevent the coalescence of settlements and assist in safeguarding the countryside from encroachment. Therefore, its openness and permanence are essential and important attributes of the green wedge¹⁰.
41. Openness is generally held to refer to the absence of development. The scale and massing of the proposed dwelling, when compared with the existing structures on part of the site, would be materially different. That is, the proposal would contrast greatly with the more modest buildings that currently exist. Comparatively, the effect on the openness of the green wedge would be greater. It would therefore have a more significant impact on the green wedge and the purpose of including land within it.
42. The appellants argue that the proposed dwelling would not be highly visible and would not have an adverse visual impact. However, for the reasons I have given the proposal would result in a loss of openness. In this context, it would represent an

¹⁰ Paragraph 4.8.5 of PPW

inappropriate form of development in the green wedge which would compromise its open character and function. In this regard, it would conflict with PPW and with LDP Policy ENV2(8).

43. PPW states that inappropriate development should not be granted planning permission except in very special circumstances where other considerations clearly outweigh the harm which such development would do to the green wedge¹¹. I will conclude on this matter later in my Decision.

Other Considerations

Character and appearance

44. For planning purposes, and in the context of LDP Policy ENV1, the site is in an area of countryside where new development is strictly controlled. It states that new development may be acceptable where it is necessary for *inter alia* appropriate rural enterprises where a countryside location is necessary for the development.
45. As already stated, I find that the proposed kennels and cattery represent an appropriate rural enterprise. I thus consider that it would be consistent with the rural character of the area. However, for the reasons I have already described, I do not find that the dwelling is justified as meeting the needs of a rural enterprise.
46. Allowing sporadic unjustified development in the open countryside would undermine its character. For this reason, it would conflict with the aspirations of local planning policy as expressed in LDP Policy ENV1 and with Policy SP2 which requires new development to have full regard to the context and character of its surroundings.
47. I do not dispute that the whole development may be sited such that it would not be highly visible in its surroundings set against the backdrop of the M4 embankment and that the design, form and scale of the wooden structures may be sympathetic in their appearance to the surrounding rural character. However, this matter does not overcome the fundamental concern I have regarding the principle of unjustified residential development of this site.

Sustainable development

48. LDP Policy SP2 also requires new development to promote good walking, cycling public transport and road connections within and outside the site to ensure efficient access.
49. The site lies outside the settlement boundary in an open countryside location, fairly remote from services, facilities and public transport. The dwelling is unjustified residential development at this location and cannot therefore benefit from the recognition in PPW that development in rural areas might not necessarily achieve all accessibility criteria.
50. I saw that the road serving the site has limited street lighting, no dedicated footways and limited forward visibility. It varies in width along its length narrowing to single file in places, and it has a series of tight 'S' bends as the lane rises with the steep topography of the area. I understand from the Highway Authority that it is used as a shortcut during peak traffic times on the strategic road network. A relatively high volume of traffic, some of which had to pull in to wait for oncoming traffic to pass, was evident at the time of my visit. In my view, it is not conducive to a safe and attractive

¹¹ Paragraph 4.8.15 of PPW

route for pedestrians walking in the carriageway or for cyclists, particularly during the evenings or in inclement weather.

51. Based on the evidence before me, it seems that residents would be heavily reliant upon goods and services which are located further afield for their day-to-day needs, accessed via the road that I have described. Whilst I acknowledge that it may be possible to walk or cycle in some instances, such an arrangement would not adequately cater for the day-to-day needs of the future occupants of this development without significant reliance on the car as a means of travel.
52. In this context, the site would not constitute a sustainable location for new housing development insofar as it would rely heavily on the use of the private car and would not be accessible by a range of different transport modes. It would conflict with LDP Policies SP2 and SP3 which favour proposals which encourage sustainable practices, reduce the need to travel and which are located in areas highly accessible by means of transport other than the private car. It would also be at odds with the overall sustainability aims of PPW.

Highway safety

53. I have already described the highway conditions and note that there is no dedicated footway along the main access road serving the site.
54. As previously noted, PPW recognises that development in rural areas might not necessarily achieve all accessibility criteria. In the case of the rural enterprise, a number of the journeys associated with the use would be to transport animals to and from the premises. The appellants assert that it is likely that such journeys would rely heavily on the use of the private car rather than involving the use of public transport or walking / cycling. There is no evidence before me that leads me to any other conclusion in this regard. To this end, the Council accepts that the kennels / cattery use would be broadly acceptable in highway safety terms.
55. Rather, it is the pedestrian and vehicular movements associated with the dwelling with which the Council takes issue. It considers that any pedestrians wishing to access the development would need to walk in the carriageway, potentially resulting in vehicular and pedestrian conflict.
56. The Council has confirmed that there are no recorded personal injury accidents along this section of Pen y Cae Lane, although it considers that existing pedestrian movements are likely to be negligible. The appellant has not disputed this.
57. Nevertheless, for the reasons I have already stated, I do not consider that the road conditions are such that it would encourage a great deal of pedestrian movement. Hence, I have found the development to be unsustainable in terms of its accessibility by a range of different transport modes, including walking. It therefore follows that it is highly unlikely that the development would increase pedestrian movements to the extent that the risk of vehicular and pedestrian conflict would be significant such that it would be harmful in highway safety terms.
58. I also note that such a situation is not uncommon in rural areas where access to a dwelling attached to a rural enterprise is gained primarily over country lanes with no footways. Consequently, I do not find conflict with LDP Policies SP2 or SP3 in this regard.

Flood risk

59. There is agreement between the parties that part of the site lies in Zone C2¹² as defined in Technical Advice Note 15 '*Development and Flood Risk*' (TAN 15). Paragraph 6.2 of TAN 15 identifies that new development should be directed away from Zone C and that highly vulnerable development and Emergency Services in Zone C2 should not be permitted.
60. Residential development constitutes highly vulnerable development. I accept that, in this case, a Flood Consequences Assessment (FCA) was carried out which informed the siting of the proposed temporary dwelling, cattery and kennels to the north of the site, outside Zone C2. On this basis, neither NRW nor the Council took issue with the proposal.
61. However, the access road to the site lies within flood Zone C2. TAN 15 advises that access routes should be operational under all conditions. Based on the additional information provided by the appellant, NRW confirmed that access from the north of the development would comply with the requirements of TAN 15 in the 1:100-year storm period but does not comply in the 1:1000-year storm period. Access from the south of the development complies with the requirement of TAN 15 in the 1:100-year storm period and the 1:1000-year storm period. Consequently, and in the event of planning permission being granted, it suggests that the south access be utilised in any emergency as the north involves crossing the river and a bridge which could be compromised by the flood waters.
62. In this context, I am satisfied that a safe means of access can be gained to and from the site in a flood event. Having regard to the information contained in the original FCA and the Supplementary Report the flood risk affecting the development site can be managed to a level which is acceptable for the nature of development proposed and therefore complies with the requirements of TAN 15.

Conclusion and Planning Balance

63. In conclusion, I have considered the development as a whole as the parties agreed that both components are inextricably linked. An essential need for a dwelling to accommodate a rural worker has not been demonstrated and the development is not justified. I therefore find that the dwelling is not necessary to meet the needs of a rural enterprise and is tantamount to inappropriate development in the green wedge, which would have an adverse effect on its openness, as described by PPW. Moreover, there would be material harm to the character of the surrounding area and the site would not represent a sustainable location for new housing development, which also carries substantial weight against the development.
64. The appellants have cited other factors in support of the development, including economic benefit to the area by supporting other local rural businesses, environmental benefits by way of the reduced carbon footprint working on site rather than travelling to work and the benefit to the local community by contributing to sustaining services in the village. These matters carry moderate weight.
65. I have had regard to the material considerations cited in support of the proposal but, taken together, they do not outweigh the harm the scheme would cause. Consequently, there are not the very exceptional circumstances necessary to justify inappropriate development in the green wedge. I have also found there to be

¹² Defined as areas of the floodplain without significant flood defence infrastructure.

insufficient justification for the proposed dwelling at this location which, in turn, would have an adverse effect on the character of the area and on the sustainability of the location. The appeal proposal would therefore be contrary to national and local planning policy.

66. I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). In reaching this decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.
67. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Melissa Hall

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr R Hathaway	Planning Consultant
Mr G Leaver	Consultant
Mr D Hopkins	Appellant
Mrs R Hopkins	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ms H Kemp	Principal Planning Officer
Mr R Matthams	Planning Policy
Ms E Elliot	Planning Policy
Mr L Tuck	Transportation & Development Control Officer
Mr R Morgan	Senior Transportation & Development Control Officer

INTERESTED PERSONS:

Mr D Lewis	Councillor for Sarn Ward.
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DOCUMENTS

- 1 The Council's notification letter of the appeal, dated 10 January 2018.
- 2 Aerial Photographs from 2013/14, 2015 and 2017.
- 3 Extract of Strategic Policy SP3 from the adopted Bridgend Local Development Plan.
- 4 Extracts from the Council's GIS – Penyfai and Aberkenfig Green Wedge layer.
- 5 Extract from NRW's DAM Maps showing the appeal site.

PLANS

- A Elevations and floorplan of temporary log cabin dwelling.

DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE HEARING

- 1 Flood Consequences Assessment Supplementary Report dated 4 February 2018.

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TRAINING LOG

All training sessions are held in the Council Chamber unless otherwise stated.

<u>Facilitator</u>	<u>Subject</u>	<u>Date</u>	<u>Time</u>
Tony Godsall, <i>Highway Services, BCBC</i>	“Traffic Regulations/Orders”	26 April 2018	12.45pm
Kwaku Opoku-Addo, <i>Highway Services, BCBC</i>	“Community Transport”	7 June 2018	12.45pm
Cenin Renewables at Stormy Down	Member training site visit at Cenin Renewables to view wind turbine, solar panels, cement labs, anaerobic digestion plant, battery bank	18 July 2018	9.30am
Gareth Denning, <i>Section 106 Officer</i> & Rod Jones, <i>Senior Lawyer</i>	“Section 106 legal agreements – basics and limitations”	19 July 2018	12.45pm

Recommendation:

That the report of the Corporate Director Communities be noted.

MARK SHEPHARD
CORPORATE DIRECTOR COMMUNITIES

Background Papers

None.

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