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Bridgend County Borough Council



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

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

*We welcome correspondence in Welsh. Please
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Cyfarwyddiaeth y Prif Weithredwr / Chief Executive's Directorate

Deialu uniongyrchol / Direct line /: 01656 643148 /
643147 / 643694

Gofynnwch am / Ask for: Democratic Services

Ein cyf / Our ref:

Eich cyf / Your ref:

Dyddiad/Date: Thursday 27 April 2023

Dear Councillor,

DEVELOPMENT CONTROL COMMITTEE

A meeting of the Development Control Committee will be held as a Hybrid meeting in the Council Chamber, Civic Offices, Angel Street, Bridgend, CF31 4WB on **Thursday, 4 May 2023 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 14/06/23 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 - 6
To receive for approval the minutes of the 23/03/23
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

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accommodated.

7. Development Control Committee Guidance
8. P/22/588/RLX - St. Johns School, Church Street, Newton, Porthcawl, CF36 5SJ 7 - 28
9. P/14/838/FUL - Land east of Cwmfelin and South of Craig Terrace/Ebenezer Terrace, Blackmill, Bridgend, CF32 8RS 29 - 54
10. P/22/731/BCB - Pencoed Primary School, Penprysg Road, Pencoed, CF35 6RH 55 - 62
11. Appeals 63 - 100
12. Training Log 101 - 102
13. Urgent Items
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.

Note: This will be a Hybrid meeting and Members and Officers will be attending in the Council Chamber, Civic Offices, Angel Street Bridgend / Remotely via Microsoft Teams. The meeting will be recorded for subsequent transmission via the Council's internet site which will be available as soon as practicable after the meeting. If you have any queries regarding this, please contact cabinet_committee@bridgend.gov.uk or tel. 01656 643147 / 643148.

Yours faithfully

K Watson

Chief Officer, Legal and Regulatory Services, HR and Corporate Policy

Councillors:

H T Bennett
A R Berrow
N Clarke
RJ Collins
C L C Davies
S Easterbrook

Councillors

RM Granville
H Griffiths
S J Griffiths
D T Harrison
M L Hughes
D M Hughes

Councillors

M R John
MJ Kearns
W J Kendall
J E Pratt
MJ Williams
R Williams

Agenda Item 4

DEVELOPMENT CONTROL COMMITTEE - THURSDAY, 23 MARCH 2023

MINUTES OF A MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD HYBRID
IN THE COUNCIL CHAMBER - CIVIC OFFICES, ANGEL STREET, BRIDGEND, CF31 4WB
ON THURSDAY, 23 MARCH 2023 AT 10:00

Present

Councillor RM Granville – Chairperson

H T Bennett	A R Berrow	N Clarke	C L C Davies
S Easterbrook	H Griffiths	S J Griffiths	D T Harrison
M L Hughes	D M Hughes	M R John	W J Kendall
J E Pratt	MJ Williams	R Williams	

Apologies for Absence

RJ Collins and MJ Kearn

Officers:

Rhodri Davies	Development & Building Control Manager
Craig Flower	Planning Support Team Leader
Mark Galvin	Senior Democratic Services Officer - Committees
Julie Jenkins	Team Leader Development Control
Robert Morgan	Senior Development Control Officer
Rod Jones	Legal Officer
Michael Pitman	Technical Support Officer – Democratic Services
Philip Thomas	Principal Planning Officer
Leigh Tuck	Senior Development Control Officer

88. DECLARATIONS OF INTEREST

Councillor Pratt declared a personal interest in agenda item 8, as the local Member for Newton and due to the fact that he resided near the application site.

89. SITE VISITS

RESOLVED:

To confirm a date of Wednesday 03 May 2023, for proposed site inspections arising at the meeting, or identified in advance of the next Committee meeting by the Chairperson.

90. APPROVAL OF MINUTES

RESOLVED:

That the minutes of a meeting of the Development Control Committee dated 9 February 2023, be approved as a true and accurate record.

91. PUBLIC SPEAKERS

There were no public speakers.

92. AMENDMENT SHEET

DEVELOPMENT CONTROL COMMITTEE - THURSDAY, 23 MARCH 2023

RESOLVED: The Amendment Sheet was accepted by the Chairperson as an urgent item under Part 4, paragraph 4 of the Council Procedure Rules.

93. **DEVELOPMENT CONTROL COMMITTEE GUIDANCE**

RESOLVED: That the outline Development Control Committee Guidance be noted.

94. **P/22/588/RLX - ST JOHNS SCHOOL, CHURCH STREET, NEWTON, PORTHCAWL CF36 5SJ**

RESOLVED: That the above application be deferred, to allow officers to seek further clarification from the developer regarding the depth of the soil, its suitability for tree planting and the scope for additional landscaping. Members also requested that the developer discusses community contributions with the Porthcawl Town Council outwith the planning process.

Proposal:

Variation of Condition 1 of P/21/211/RLX – Tree removal/tree retention plans and landscaping scheme .

95. **APPEALS**

RESOLVED: (1) That the appeals received since the last meeting of the Committee as shown in the report of the Corporate Director – Communities be noted.

(2) That the Inspector appointed by Welsh Ministers to determine the following appeals, has directed they be Dismissed:-

- a. Appeal No. – CAS-02102-T9M5R1 (1961)
Subject of Appeal – Residential development with car parking, landscaping and ancillary works – Land to north and east of Cypress Gardens, Porthcawl.
- b. Appeal No. - CAS-02058-H2T2R2 (1959)
Subject of Appeal – Change of use from Use Class B1/B2 to Use Class D1 (health Clinic), Unit 1A and 2A Heol Ffaldau, Brackla Ind. Estate, Bridgend
- c. Appeal No. - CAS-02071-B9C1R9 (1970)
Subject of Appeal – Untidy land, Former Pump House, Heol Faen, Maesteg.
- d. Appeal No. - CAS-02346-D9Y3L9 (1976)
Subject of Appeal - Detached garage to front of property, High Street, Laleston.
- e. Appeal No. - CAS-02392-C5M3H6 (1980)

Subject of Appeal – Retention of shed and fence within front garden, 5 Clevis Crescent, Porthcawl.

- f. Appeal No. - CAS-02421-S3S7F6 (1981)
Subject of Appeal – Remodelling of dwelling, 1st floor with pitched roof dormers and 2 storey glazed frontage; alterations and extensions to ground floor, 1 The Whimbrels, Porthcawl.

(3) That the Inspector appointed by Welsh Ministers to determine the following appeals, has directed they be Allowed, subject to the Conditions contained in the report of the Corporate Director - Communities:-

- a. Appeal No. - CAS-02159-S2N0T9 (1971)
Subject of Appeal – Dining Room extension, 9 Duffryn Oaks Drive, Pencoed.
- b. Appeal No. - CAS-02051-R7H6K0 (1958)
Subject of Appeal – Vary Condition 1 of P/21/420/FUL – Amended design of Granny annex, 15 West Drive, Porthcawl.
- c. Appeal No. - CAS-02130-Q2Z4J5 (1965)
Subject of Appeal - Vary Condition 1 & remove Condition 4 of P/19/371/FUL - (Proposed conversion (including extensions) of 2 stone barns & associated land to 2 dwellings with private garden space & courtyard area for accommodating associated parking spaces) land between Pyle Road & Fulmar Road, Nottage, Porthcawl.

(4) That the Inspector appointed by Welsh Ministers to determine the following appeal be Allowed on Ground G, subject to the Conditions contained in the report of the Corporate Director – Communities. The Enforcement was Upheld:

Appeal No. - CAS-02021-G5L2F4 (1957)
Subject of Appeal – Alleged unauthorised Build, 3 Clevis Crescent, Porthcawl.

(5) That Members requested that as part of future appeals information, they be provided with statistics relating to appeals performance.

96. TRAINING LOG

RESOLVED:

That the report of the Corporate Director – Communities outlining up and coming training sessions on Planning and Development key topics, be noted.

97. URGENT ITEMS

None.

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REFERENCE: P/22/588/RLX

APPLICANT: Taylor Wimpey UK Ltd Ground Floor, The Eastern Business Park,
Wern Fawr Lane, Cardiff CF3 5EA

LOCATION: St Johns School, Church Street, Newton, Porthcawl CF36 5SJ

PROPOSAL: Variation of condition 1 of P/21/211/RLX – tree removal/tree retention
plans & landscaping scheme

RECEIVED: 24 August 2022

BACKGROUND

This application was considered by the Development Control Committee at the meeting held on 23 March 2023 but was deferred to allow officers to seek further clarification from the developer regarding the depth of the soil and its suitability for tree planting and the scope for additional landscaping. Members also wanted the developer to discuss community contributions (including new tree planting) with Porthcawl Town Council outside the planning process.

The Environmental Dimension Partnership (EDP) on behalf of Taylor Wimpey have submitted a response that considers the issue of additional tree planting on site and a review of the implementation of the landscaping works undertaken thus far.

Regarding the quality of the implemented landscape works, EDP acknowledge that they have not been present during the implementation nor have they completed any post implementation inspections. Dunn Landscapes who undertook the landscaping works have confirmed that the specification for tree and hedge planting, as detailed on the approved landscaping drawings has been followed. EDP in their statement draw attention to condition 12 of the consent which requires the replacement of any tree that is removed, uprooted or destroyed or dies or becomes in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that originally planted within a three-year period from the date of planting. EDP do not consider there to be any material concerns in respect of the quality of implementation of the landscape proposals as designed.

The EDP response references the original application (P/20/263/FUL refers) which was supported by an Arboricultural Impact Assessment (AIA) prepared by Treescene Arboricultural Consultants. This considered the losses required to facilitate the development of the site and for proper management of unsafe/unhealthy trees. The AIA also set out the mitigation requirements in light of this with regard to both tree protection measures and replanting. A significant number of trees were to be removed for arboricultural reasons and others to facilitate the development. Extensive new planting with a total of 83 new trees and 728 shrubs were proposed to mitigate for the loss and formed the approved landscaping scheme for the development.

EDP note that the current application seeks to regularise a number of the changes which have occurred in the context of the arboricultural assets on site since the original application/consent. Based on a thorough review of the changes to the arboricultural survey information and the actions undertaken on site, it is the view of EDP that the majority of actions are either in line with the previously consented arboricultural work or have been undertaken for reasons of sound arboricultural good practice largely due to the effects of Ash Die Back disease which has spread across the site and indeed across much of South Wales in the time since the original survey work. Members should note that the tree survey that accompanied this application has been amended and proposes further works along the eastern boundary of the site. This will be discussed in the table of works set out below but covers further Ash Die Back and Elm Disease on site.

EDP acknowledge on behalf of Taylor Wimpey that certain actions such as the removal of trees in G5 have been due to unconsented disturbance of the root protection areas. Overall, an additional 8 trees have been removed beyond those consented under the previous applications.

EDP maintain that all previously consented removals were considered to have been adequately mitigated through the consented landscape scheme. While unconsented removals to facilitate development and removals due to harm on site are balanced by additional retained specimens on site, there remains a higher degree of tree removal than the original consented scheme due to the progress of disease across the tree stock in the intervening years leading to a loss of a further 8 specimens across the site.

In response to the Ash Die Back and the concerns of the Council, an updated landscaping scheme has been prepared to show additional tree planting comprising a total of 8 additional new trees located within public realm/incidental landscape areas around the site. These additional plantings are considered adequate mitigation especially given that these losses were incurred due to sound arboricultural reasoning.

In terms of the scope for “community contributions”, it is the developers view that the revised landscaping proposal that provides an additional eight trees on site in addition to the extensive tree planting already undertaken on site, fully mitigates the effect of the development.

Members are reminded that in line with policy the original Section 106 Agreement has already secured 8 affordable housing units on site and an off-site contribution for 9 affordable housing units, a financial contribution of £75,450 to improve a local children’s play area, a financial contribution of £8,000 to fund a Road Traffic Order to designate the development site as a 20mph zone and a Public Art Strategy.

The Committee Report has been updated to include the late representations received that were included on the amendment sheet for the last Committee meeting.

APPLICATION/SITE DESCRIPTION

Taylor Wimpey UK Ltd has submitted this application to vary the plans and documents that were approved as part of condition 1 of P/21/211/RLX. The condition listed the approved layout plans, house types, various technical reports but critically reports and drawings concerning the retention and removal of existing trees and new planting proposals.

Taylor Wimpey is in the process of constructing fifty-seven residential units on the site of the former St John’s School which is located within the historical village of Newton. The trees on site are protected by Order and by their location within the Newton Conservation Area.

The application has been submitted as a result of an enforcement investigation regarding the removal of a number of trees on the site and seeks to agree an updated package of drawings to reflect the current position with regard to tree retention, tree works and tree loss. A revised landscaping scheme has also been submitted proposing new areas of tree planting where trees have been removed.

The following table identifies the individual trees and groups of trees with reference to the agreed programme of tree works and those proposed on the tree report that has accompanied this application. The tree numbers and text in bold identifies the trees that are to be removed under this submission:

Tree Number	Species	Comments from Original Tree Report (20/2/2019)	Comments from Updated Tree Report (23/8/2022 & 3/4/2023)	Changes/Outcomes
T1	Sycamore (Acer pseudo platanus)	Recommendation: Prune to remove major deadwood. Monitor for safety	Recommendation: Prune to remove unstable deadwood of diameter greater than 50mm. Monitor for health in relation to any potential ground disturbance on root protection area	Tree retained – deadwood to be removed
T2	Sycamore (Acer pseudo platanus)	Tree of reasonable form located at northern end of small linear copse Recommendation: Crown raise to 3m	Boundary tree of reasonable form Recommendation: Crown raise to 3m	No change – tree retained.
G5	Group of Sycamore (Acer pseudo - platanus) and Ash (Fraxinus excelsior)	Scrubby specimens forming small linear copse located on raised ground. Most specimens heavily colonised by ivy thus preventing full inspection. Recommendation: Monitor for highway safety	Scrubby specimens on raised ground. Spindly specimen of Ash is infected with Ash dieback disease. Specimen of Poplar on south-eastern edge of group has suffered significant mechanical damage and varying of ground levels in root protection area which is likely to lead to death. Sycamore on southern end of group has suffered significant mechanical damage and raising of ground levels within root protection area which is likely to lead to death. Recommendation: Remove infected Ash tree. Remove Poplar tree. Remove southernmost specimen of Sycamore.	Ash tree with ash die back to be removed Poplar tree to be removed Sycamore tree to be removed
G10	Group of Sycamore (Acer Pseudo-platanus) and Ash (Fraxinus Excelsior)	Trees of generally variable form located on raised bund. Most specimens colonised by ivy thus preventing full inspection. Some evidence of squirrel damage to selected specimens. Many trees suppressed by more dominant Poplars Recommendation: Monitor for safety	Trees of generally variable form located on raised bund. Most specimens colonised by ivy thus preventing full inspection. Some evidence of squirrel damage to selected specimens. Specimens of Ash are infected with Ash dieback Recommendation: Remove infected Ash	Ash tree with ash die back to be removed

			tree. Monitor remaining trees for safety	
T11	Sycamore (Acer Pseudo-platanus)	Multi stemmed specimen of variable form. Main stems heavily colonised by ivy thus preventing full inspection. Recommendation: Monitor for safety	Multi stemmed specimen of variable form. Main stems heavily colonised by ivy thus preventing full inspection. Recommendation: Crown raise to 4m. Prune to remove deadwood. Monitor for safety.	Tree retained. Crown reductions works proposed.
T14	Sycamore (Acer Pseudo-platanus)	Tree of variable form and low vigour. Extensive squirrel damage throughout crown indicating that many branches are at risk of failure. Evidence of thinning and die-back within crown Recommendation: Remove excessively squirrel damaged branches. Monitor for health.	Tree of variable form and low vigour. Extensive squirrel damage throughout crown indicating that many branches are at risk of failure. Evidence of thinning and die-back within crown Recommendation: Prune to removed deadwood diameter greater than 50mm. Monitor for health.	Tree retained deadwood removal proposed.
G17	Group of Sycamore (Acer pseudo - platanus) Ash added to the group in 2022 report.	Trees of generally reasonable form creating linear copse sited on raised mound Recommendation: Monitor for safety	Trees of generally reasonable form creating linear copse sited on raised mound. Triple stemmed specimen at western end of group exhibits significant basal decay that may lead to structural failure in the near future. Some deadwood within crowns. Specimen of Ash at eastern end of group is infected with Ash dieback disease. Recommendation: Remove triple stemmed specimen at western end of group. Remove infected Ash tree at eastern end of group. Prune to remove unstable deadwood diameter greater than 50mm and any hung up branches. Monitor for safety.	Sycamore tree to be removed Ash tree with ash die back to be removed Other trees in group - deadwood removal proposed
G19	Group of Beech (Fagus Sylvatica)	Line of trees of generally reasonable form. Some minor structural defects and deadwood within	Line of trees of generally reasonable form. Some minor structural defects and deadwood within	Group of Trees retained – deadwood to be removed.

		<p>crown.</p> <p>Recommendation: Prune to remove major deadwood. Monitor for safety.</p>	<p>crown. Evidence of some ground disturbance within root protection areas.</p> <p>Recommendation: Prune to remove unstable deadwood greater than 50mm diameter. Monitor for safety.</p>	
T24	Sycamore (Acer Pseudo-platanus)	<p>Boundary tree of variable form with lower fork at 1m, which may become a point of weakness over time</p> <p>Recommendation: Monitor for safety.</p>	<p>Boundary tree of variable form with lower fork at 1m, which may become a point of weakness over time. Evidence of some root loss on western side of root protection area.</p> <p>Recommendation: Monitor for health and safety.</p>	Tree retained but will be monitored.
Group G53 has been re-numbered and re-assessed				
T531	Hazel	<p>Scrubby specimens forming gappy hedgerow</p> <p>Recommendation: No action required at this time</p>	<p>Individual specimen that is remnant of former hedgerow Scrubby multi-stemmed specimen of reasonable form.</p> <p>Recommendation: No action required</p>	No action required
T532	Sweet Bay	<p>Scrubby specimens forming gappy hedgerow</p> <p>Recommendation: No action required at this time</p>	<p>Scrubby multi-stemmed specimen of variable form and vigour. Spindly stem extending to the north-east is at risk of failure and leaning against boundary fence</p> <p>Recommendation: remove spindly north-eastern most stem</p>	Spindly stem of tree to be removed
T58	Ash (Fraxinus excelsior)	<p>Boundary tree of reasonable form. Full visual inspection impeded by presence of adjacent Conifers. No obvious indications of serious structural defects.</p> <p>Recommendation: Monitor for safety.</p>	<p>Boundary tree of reasonable form, exhibiting severe symptoms of Ash dieback disease.</p> <p>Recommendation: Remove</p>	Ash tree with ash die back to be removed
Group G60 has been re-numbered and re-assessed				
T601	Cotoneaster		<p>Ornamental shrub of variable form leaning excessively to the northwest. Evidence of</p>	Cotoneaster to be removed.

			<p>significant basal decay and decay within some stems that is likely to lead to structural failure in the foreseeable future</p> <p>Recommendation: Remove.</p>	
T602	Hawthorn		<p>Tree of variable form leaning to the southeast. Evidence of some dieback in lower crown. Evidence of some root disturbance on western side of rooting area which could lead to structural failure in the future.</p>	Monitor
T603	Ash		<p>Boundary tree severely infected with Ash Dieback Disease</p>	Ash tree to be removed.
G604	Group of 4: Elm and Horse Chestnut		<p>Naturally regenerated specimens of poor form that are unsuitable for retention in this location.</p>	Group of trees to be removed.
T605	Elm		<p>Naturally regenerated specimen in direct conflict with boundary fence which has led to mechanical damage on main stem. This specimen is unsafe for retention.</p>	Tree to be removed.
T606	Elm		<p>Naturally regenerated specimen of poor form in direct conflict with boundary fence. This specimen exhibits early-stage symptoms of Dutch Elm Disease</p>	Tree to be removed.
T607	Ash		<p>Boundary tree exhibiting early-stage symptoms of Ash Dieback Disease.</p>	Tree to be removed.
T608	Hawthorn		<p>Multi-stemmed specimen exhibiting severe dieback throughout crown. This specimen is in a moribund condition and unsafe for retention.</p>	Tree to be removed.
T609	Hawthorn		<p>Scrubby specimen of reasonable form. Main</p>	Monitor

			stem and lower crown colonised by ivy thus preventing full inspection. Evidence of some root disturbance on western side of base	
T6010	Ash		Boundary tree of poor form leaning to the east. This specimen exhibits early-stage symptoms of Ash Dieback Disease.	Tree to be removed.
G6011	Group of Ash		Naturally regenerated specimens exhibiting early-stage symptoms of Ash Dieback Disease.	Trees to be removed.
T6012	Elm		Naturally regenerated specimen of reasonable form that is vulnerable to developing Dutch Elm Disease	Monitor
G6013	Group of Ash and Elm		Ash are infected with Ash Dieback Disease. Elm exhibit significant physical damage to main stems that make them vulnerable to structural failure.	Trees to be removed.
T64	Weeping Birch (Betula pendula 'Youngii'))	Ornamental specimen of reasonable form Recommendation: No action required at this time	Ornamental specimen of reasonable form. Evidence of ground disturbance within root protection area. Tree protection barriers are missing Recommendation: Carefully restore original ground levels within root protection area and install specified tree protection barriers	Tree Retained. Protection barriers installed.
T65	Birch (Betula pendula)	Tree of reasonable form Recommendation: Crown raise to 3m	Tree of reasonable form. Evidence of ground disturbance within root protection areas. Tree Protection barriers are missing. Recommendation: Crown raise to 3m and install protection barriers.	Tree retained. Protection barriers installed.
T66	Crab Apple (Malus spp)	Young tree of variable form suppressed by adjacent Conifer	Young tree of variable form suppressed by adjacent Conifer. Tree	Tree Retained. Protection barriers installed

		Recommendation: No action required at this time	Protection barriers are missing. Recommendation: install specified tree protection barriers	
T67	Blue Atlas Cedar (Cedrus atlantica Glauca)	Tree of good form and upright habit with no obvious indications of serious structural defects Recommendation: No action required at this time	Tree of good form and upright habit. Evidence of significant ground disturbance particularly on northern and western side of root protection area which has led to commencement of thinning and die-back of foliage throughout crown. Tree protection barriers missing. Recommendation: Prune to remove deadwood and install specified tree protection barriers	Tree retained but compromised. Protection barriers installed.
T79	Sweet Bay (Laurus nobilis)	Multi stemmed specimen of scrubby habit Recommendation: No action required at this time	Multi stemmed specimen of scrubby habit. Some evidence of thinning and dieback of foliage on northern side of crown Recommendation: Monitor for Safety	Tree retained.
G85	Group of Sycamore (Acer Pseudo-platanus) and Ash (Fraxinus excelsior)	Scrubby off-site specimens with crowns more heavily developed on western side Recommendation: Monitor for safety in relation to adjacent public highway	Scrubby off-site specimens with crowns more heavily developed on western side. Ash are infected with Ash die back disease Recommendation: Removed infected ash trees. Monitor for safety in relation to adjacent public highway	Ash tree with ash die back to be removed
G86	Group of Sycamore (Acer pseudo - platanus) and Ash (Fraxinus excelsior)	Trees forming narrow linear woodland. Specimens of generally reasonable form sited outside the southern boundary of the site. Recommendation: Monitor for safety	Trees forming narrow linear woodland. Specimens of generally reasonable form sited outside the southern boundary of the site. Ash are infected with Ash dieback disease. Recommendation: Remove infected Ash trees. Monitor remaining trees for safety	Ash tree with ash die back to be removed

G87	Group of: Ash	Small copse containing trees of generally reasonable upright habit. Most stems heavily colonised by ivy thus preventing full inspection. Recommendation: No action required at this time	Small copse containing trees of generally reasonable upright habit. These specimens are infected with Ash Dieback Disease.	Trees to be removed
G88	Group of: Ash	Trees sited at top of vertical stone cliff. These specimens may become unstable over time. Recommendation: Monitor for stability.	Trees sited at top of vertical stone cliff. These specimens are infected with Ash Dieback Disease.	Trees to be removed

In summary, trees T1, T11, T14 and within G17 & G19 will be retained and the deadwood removal will be reduced to branches which have a diameter greater than 50mm

Ash Die Back and Elm Disease has been recorded on site on the latest survey and trees will be removed within G5, G10, G17, T603, G604, T605, T606, T607, T608 G6010, G6011, G6013, G85, G86, G87 and G88 and a single specimen at T58.

Evidence of ground disturbance within root protection zones and a failure to erect tree protection barriers were noted in the following: G19. T24, T64, T65, T66, and T67. All trees will be retained and the barriers were subsequently installed during construction. The failure to install the fencing has caused some die-back in the crown of T67 and deadwood removal is proposed.

In G5 the tree report notes that the group has been affected by significant mechanical damage and changes to ground levels in root protection during construction works which has affected the well-being of a Sycamore and a Poplar. The report recommends that the trees be felled. Those works have been undertaken.

In response to these actions and the Ash Die Back which will result in the removal of additional trees, revised landscape proposals have been submitted that propose new tree planting in and around the affected areas. A mix of native trees (Alder, Birch and Sycamore) have been planted. The scheme has been updated following the request from Members of the Development Control Committee.

RELEVANT HISTORY

Application Reference	Description	Decision	Date
P/20/263/FUL	Demolition of the existing buildings and construction of 57 dwellings, including 8 affordable apartments together with an off-site contribution, landscaping, public open space, SUDS and associated works	Conditional Consent	26/02/2021
P/21/266/CAC	Conservation Area Consent for the demolition of the existing school	Conditional Consent	11/12/2021

buildings within Newton Conservation Area

P/21/211/RLX	Vary condition 1 (approved plans/documents) of P/20/263/FUL to update the drawings to correct the tree removal/tree retention plans and to update the landscaping scheme	Conditional Consent	06/07/2021
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CONSULTATION RESPONSES

CONSULTEE

COMMENTS

Town Council

No comments received

Cllr J Pratt - Local Member

I am minded to request that this application be referred to Committee as trees and their subsequent removal and replacement has been a sensitive subject in my ward.

REPRESENTATIONS RECEIVED

The application has been advertised on site.

Neighbours have been notified of the receipt of the application.

The period allowed for response to consultations/publicity has expired.

Letters of objection have been received from the occupiers of the following properties:

20, 22 and 33 Birch Walk
7 Bridgend Road & 1 Bryneglwys Avenue

The following is a summary of the representations received:

- Wilful destruction of many trees on the St John's site – developers should be made to reinstate, wherever possible, plantation of native species
- Tree T81 should be replaced with a similar mature tree
- Loss of trees will have an impact on wildlife
- Company should be prosecuted for their actions
- Council should be on site to monitor tree felling
- Developer has failed to deliver landscaping – depths of planting around new trees is not sufficient
- Flooding problems on site
- The lack of specific detail is of concern.

The occupier of 19 Laburnum Drive supports the application.

Late representations were received from the occupiers of 22 & 37 Birch Walk and were reproduced in full on the amendment sheet. A summary of the objections raised are reproduced below:

Ground conditions and levels were altered which will affect the new planting – depth of soil to shallow – evidence of die-back on site – landscaping compromised

Advert near showhouse indicates the sale of 3, 4 and 5-bedroom dwellings – no 5 bed dwellings have been consented on site – are the developers following the planning permission.

COMMENTS ON REPRESENTATIONS RECEIVED

Issues concerning the felling of trees will be addressed in the appraisal section of this

report but the following comments are offered in response to the other matters raised by residents:

Tree T81 should be replaced with a similar mature tree: T81 is not referenced in the latest report but file records indicate that it was removed in the Spring of 2022 on the basis that it was dying and dangerous (ash die-back). Including a new tree in the small rear garden of the adjacent property could be secured through the latest landscaping plan but when mature that is likely to cause problems because of its proximity to the dwelling. Additional tree planting in the more public areas of the site will compensate for this loss.

Company should be prosecuted for their actions: This is a separate matter and the potential consequence of the actions taken by the development company. This application is however seeking to agree a revised tree retention plan, a new programme of tree works and additional tree planting as part of an amended landscaping scheme.

Council should be on site to monitor tree felling: Monitoring site works is not a requirement of the planning system. Developers should however follow all the approved plans and documents agreed as part of the planning conditions

Developer has failed to deliver landscaping – depths of planting around new trees is not sufficient: The objector references the deposition of materials over the area of Plots 1-13 and the impact of the works on the implementation of the approved landscaping. The original application was accompanied by a Geotechnical and Geoenvironmental Site Investigation Report by Terra Firma (March 2019) which set out number of engineering recommendations regarding site preparation, foundation design etc. The report indicated that allowances should be made for the excavation of any soft spots/areas and their replacement with well compacted imported granular materials. It stated that any reduced levels should be brought up to the required levels with suitable inert mainly granular materials. Department of Transport (DoT) type 2 sub-base or similar should be used and should be compacted in layers. This may provide an explanation for the works witnessed by the objector.

Turning to the approved and revised landscaping schemes which have been submitted by a registered practice of the Landscape Institute. They include detailed specifications of proposed and tree and hedgerow planting and a programme for maintenance and management which accords with British Standards. EDP have provided a statement regarding the implementation of the landscaping scheme. Members should be aware that a condition will be imposed on the consent requiring re-planting where trees are damaged, become defective or die.

Flooding problems on site: The Department is aware of a flood event on Bryneglwys Gardens and Avenue which was investigated by the Council's Land Drainage Team and Dwr Cymru Welsh Water. It was not connected to any of the matters relating to the specifics of this application.

The lack of specific detail is of concern: A resident was concerned about a lack of detail with the application. Sufficient information has been submitted to enable an assessment of the works. A supporting planning statement and table that compared the previously approved works to those undertaken would have assisted.

Misleading Advert: The Department has contacted Taylor Wimpey in response to the above concern and has received the following:

I can confirm that following conversations with our sales team we are not building any 5-bedroom houses, seems this may be a generic advertising board. We will look to get this

amended and rectified... The advert has been amended.

RELEVANT POLICIES

Local Policies

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

Policy PLA1 Settlement Hierarchy and Urban Management
Policy SP2 Design and Sustainable Place Making Policy
Policy SP4 Conservation and Enhancement of the Natural Environment
Policy ENV5 Green Infrastructure
Policy ENV6 Nature Conservation
Policy SP5 Conservation of the Built and Historic Environment including Conservation Areas

SPG19: Biodiversity and Development

National Policies

In the determination of a planning application regard should also be given to the requirements of National Planning Policy which are not duplicated in the Local Development Plan.

The following Welsh Government Planning Policy is relevant to the determination of this Planning application:

Future Wales – the National Plan 2040
Planning Policy Wales Edition 11
Planning Policy Wales TAN 5 Nature Conservation and Planning
Planning Policy Wales TAN 12 Design
Planning Policy Wales TAN 10 Trees

WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015

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

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

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

THE SOCIO-ECONOMIC DUTY

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

the duty has been considered in the assessment of this application.

APPRAISAL

This application is referred to the Development Control Committee for determination at the request of the Local Member and in view of the number of objections received.

Taylor Wimpey is in the process of implementing the planning consent granted for housing on the former St John's School site, Newton. This Section 73A submission seeks to substitute a number of documents approved under condition 1 of consent P/21/211/RLX, namely a revised tree report which includes a programme of works, an updated tree protection plan/tree removal plan and revised landscaping details. The main consideration is whether the revised documents are acceptable in terms of tree protection and the wider benefits the trees provide in terms of the visual amenity of the site, its surroundings which includes Newton Conservation Area and associated biodiversity interest.

The retention of trees as part of this development was one of the primary considerations in the determination of the previous consents on site. Extensive survey works were carried out and layout changes were made to ensure that trees would be retained in the interests of amenity, biodiversity and protecting the character of the Newton Conservation Area. Method Statements to control works in and around the retained trees were approved. It should also be noted that a significant number of trees were to be removed on arboricultural grounds and to facilitate the development.

As development progressed, it became apparent that the applicant company were not following all the safeguarding measures in terms of development within the root protection zones of the retained trees. This was observed by residents and reported to the Council. In a number of locations the poor working practices of the development company had impacted the trees and the Council requested that a revised tree survey be carried out. That document forms part of this application and the table above compares the recommendations of the previously approved tree report and the latest document.

The survey has been undertaken by a qualified arborist and the findings of the report and recommended tree works are not questioned. The greater number of trees to be felled are due to ash die-back. For a number of these trees, their condition has deteriorated significantly since the original survey. Where the consultant arborist has noted ground disturbance works within the root protection zones, the majority of the trees are to be retained although deadwood removal is proposed as it is on a number of trees on site. All the above works are justified on arboricultural grounds.

The areas of concern which have also been noted by the residents are where mechanical damage and changes to ground levels have so affected the health and well-being of the trees that it necessitated the removal of a Poplar and a Sycamore. Such actions represented a failure on the part of the developer to follow the Arboricultural Impact Assessment and Method Statement. Whether this poor site management was a deliberate attempt to wilfully damage the trees is a matter to be considered outside the scope of this application. The Council is being asked to retrospectively agree the works to fell the trees and on the basis of the arboricultural evidence, the works were justified.

Policy ENV6 of the Bridgend Local Development Plan confirms that the retention of trees should always be considered in the first instance and that policy along with others in the plan and the Council's Supplementary Planning Guidance framed the assessment of the previous applications. The policy does recognise that where retention is not possible, suitable compensatory measures will be required in the form of re-planting schemes. The application includes plans for new native tree planting throughout the site which also includes additional planting in the area G5 and other locations where trees will be lost

through Ash Die Back. The submitted plans are acceptable and would demonstrate compliance in part with Policy ENV6.

Accepting that the tree works are justified on arboricultural grounds, it is also acknowledged that they would have some impact on visual amenity at a local level and on the wider Newton Conservation Area. The Poplar and Sycamore trees in G5 were located on the western edge of the site and were visible from Bryneglwys Avenue and beyond. Any replacement trees will take a number of years to mature and provide the same level of amenity. A number of retained mature trees still frame the housing development and do lessen its impact on the visual amenities of the area.

Residents have suggested that the loss of trees and other associated works will have impacted on the site's biodiversity interest. An Ecology Strategy for the development was agreed as part of the original consent and included tree and woodland retention where possible, provision of habitat buffers, sensitive drainage, the provision of open space and the sensitive arrangement of the proposed housing. Additional design measures included the enhancement of woodland habitat, new native tree and shrub planting, new bird nesting and bat roosting opportunities. The removal of additional trees would conflict with the aims of the strategy but the mitigation is the new planting that will be secured through the revised landscaping scheme. The original strategy and new tree planting will address the Council's Section 6 duty of providing a net benefit for biodiversity.

CONCLUSION

This application is recommended for approval on the basis that the revised tree report and programme of works (some of which have been undertaken) are acceptable on arboricultural grounds. Furthermore, the revised landscaping proposals which seek to compensate for the loss of trees on site are also acceptable. The concerns of residents and others regarding tree loss and the poor working practices of the developers are justified but any action in this regard would be outside the scope of this application. It should be noted changes were made on site following the initial complaints from residents and investigations by the Council.

The tree loss that resulted from a failure to implement the correct working practices for development around trees has impacted on the amenities of the area but that will be mitigated, in part, through new tree planting.

The S73 consent should therefore be issued with the revised documentation listed in the condition. The conditions imposed on the earlier permission will be repeated where appropriate. It should also be noted that the obligations secured under the original planning permission will bind this consent and any other subsequent permissions issued under Section 73 of the Town and Country Planning Act 1990.

RECOMMENDATION

(R53) 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

Site Investigation Report prepared by Terra Firma - March 2019,

Lighting Impact Assessment prepared by Hydrock - February 2020,

Topographical Survey prepared by Think Urban

Archaeological Appraisal prepared by EDP

Tree Survey prepared by Treescene received on 3 April 2023

Air Quality Assessment prepared by Air Quality Consultants - June 2019

Pre-Application Consultation Report prepared by LRM Planning Ltd - received 2 April 2020.

External Materials Plan - edp5078_d022-M - received 9 November 2020

Boundary Enclosures Plan - edp5078_d023-H - received 9 November 2020

External Finishes Plan - edp5078_d057-B - received 9 November 2020

Street Elevations/Sections - edp5078_d041-B - received 9 November 2020

House Type Plans & Elevations:

Midford (Stone) - edp5078_d025-D - received 9 November 2020

Midford (Render) - edp5078_d026-C - received 9 November 2020

Ransford (Stone) - edp5078_d010-A - received 9 November 2020

Easedale (Render) - edp5078_d029-C - received 9 November 2020

Gosford (Stone) - edp5078_d030-B - received 9 November 2020

Gosford (Render) - edp5078_d031-C - received 9 November 2020

Mansford (Stone) - edp5078_d032-E - received 9 November 2020

Mansford (Render) - edp5078_d033-D - received 9 November 2020

Mansford (Render Special) - edp5078_d050-B - received 9 November 2020

Rectory - edp5078_d049-C - received 9 November 2020

Trusdale (Stone) - edp5078_d052 - received 9 November 2020

Dunham (Stone) - edp5078_d053 - received 9 November 2020

Dunham (Render) - edp5078_d054-A - received 9 November 2020

Wortham (Stone) - edp5078_d055 - received 9 November 2020

Wortham (Render) - edp5078_d056-A - received 9 November 2020

Double Garage - edp5078_d039-C - received 9 November 2020

Single Garage- edp5078_d040-C - received 9 November 2020

Drainage Strategy - 190902_TWC_D_001 B - received 9 November 2020

General Arrangement (1 of 2) - 190902_TWC_GA_001 B - received 9 November 2020

General Arrangement (2 of 2) - 190902_TWC_GA_001 B - received 9 November 2020

Highway Longitudinal Sections - 190902_TWC_H_001 A - received 9 November 2020

Adoption Plan - 190902_TWC_LA_001 B - received 9 November 2020

Storm Water Calculations prepared by Think Urban Design – September 2020 - received 9 November 2020

AIA & AMS Reports prepared by Treescene - November 2020 - received 9 November 2020

AIA Plan prepared by Treescene - received 9 November 2020

Design & Access Statement prepared by EDP - November 2020 - received 9 November 2020

Heritage Impact Assessment - edp5078_r004e - received 9 November 2020

Ecological Appraisal - edp5078_r005b - received 9 November 2020

Noise & Vibration Assessment prepared by Wardell Armstrong dated November 2020 - received 9 November 2020

Transport Statement prepared by Lime Transport - 19112.d1Rev G - received 9 November 2020

Amended Apartments Floor Plans and Elevations – edp5078_d047 – F received 12 November 2020.

Written Scheme of Investigation (WSI) for an archaeological watching brief prepared by EDP (dated January 2021, ref edp5078_r009a) received 4 March 2021

Tree Protection and Removal Plans prepared by Treescene – received on 24 April 2023

Revised Construction Environmental Management Plan Rev.C submitted 20 May 2021

Revised Detailed Soft Landscaping Plans Sheet 1 - Edp5078_d042r - received 24 April 2023

Revised Detailed Soft Landscaping Plans Sheet 2 - Edp5078_d042r - received 24 April 2023

Revised Detailed Soft Landscaping Plans Sheet 3 - Edp5078_d042r - received 24 April 2023

Revised Detailed Soft Landscaping Plans Sheet 4 - Edp5078_d042r – received 24 April

2023.

Revised Site Layout Plan - NEWT-21-04-15 REV F received 16 June 2021

External Work Layout - NEW-21-04-17 REV F received 16 June 2021

External Finishes-A1 Drawing no. 190902-TWC-GA-003 F received 16 June 2021

Apartment Footpath – C16/FD/001 received 16 June 2021

Revised Footpath tie in detail drawing ref no. 190902_TWC_H_003 Rev C submitted 17 June 2021

Revised Footpath Tie in Detail – A1 – Drawing Ref No.190902-TWC-H-003B received 16 June 2021

Visitor Parking Plan received 16 June 2021

Cycle Store Detail – 1F118-CS1-01 received 16 June 2021

Revised Construction Traffic Management Plan and Traffic Management Plan submitted on the 16 June 2021

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

2. The external surfaces of the dwellings hereby permitted shall be constructed in accordance with the details and specifications agreed under application P/21/378/DOC as agreed by the Local Planning Authority on 15 July 2021.

Reason: To ensure that the proposed materials of construction are appropriate for use on the development and to enhance and protect the visual amenity of the Newton Conservation Area.

3. The boundary treatments on this development shall be constructed in accordance with the details, specifications and timetable agreed under application P/21/476/DOC as agreed by the Local Planning Authority on 4 March 2022.

Reason: To ensure that the proposed materials of construction are appropriate for use on the development and to enhance and protect the visual amenity of the Newton Conservation Area.

4. 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 buildings shall be erected other than those expressly authorised by this permission and shown on plan number edp5078_d005AF - Site Layout Plan.

Reason: To enable the Local Planning Authority future control over the scale of development as well as the installation of new windows or dormers or the extension of the property to the rear, in the interests of the residential amenities of adjacent properties and to protect the amenity space provided within the property.

5. 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 buildings shall be erected other than those expressly authorised by this permission and shown on plan number edp5078_d005AF - Site Layout Plan.

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

6. Notwithstanding the provisions of Schedule 2, Part 1 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 windows other than those as hereby approved shall be inserted into the side elevations of the dwellings other

than those expressly authorised by this permission.

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

7. The dwellings hereby approved shall be constructed in accordance with the details of existing ground levels within and adjacent to the site and the proposed finished ground and floor levels as agreed by the Local Planning Authority under application P/21/476/DOC on 4 March 2022.

Reason: To ensure a satisfactory form of development.

8. The boundary treatment to be erected along the boundary with Plot 53 and the rear of the neighbouring property known as Hafod, Church Street, shall be in accordance with the details agreed by the Local Planning Authority under application P/21/467/DOC on 4 March 2022. The approved details shall be implemented prior to beneficial occupation of the dwelling and shall thereafter be retained in perpetuity.

Reason: To protect the privacy and residential amenities of the occupiers of Hafod, Church Street.

9. Prior to the occupation of the Plots 23-37, as indicated on site layout plan drawing edp5078_d005AF received on 9 November 2020, a 2.6m acoustic barrier shall be installed along the northern site boundary. The barrier shall have a minimum density of 10kg/m² mass per unit area and be imperforate, rot proof and vermin proof. The design details of the barrier shall be submitted to the Local Planning Authority for prior approval and shall be agreed in writing. The details shall include a location plan showing the exact position of the barrier, construction details and details confirming that the barrier has a minimum mass density of at least 10kg per m². The design shall be implemented as agreed and the barrier shall be maintained in that condition and retained in perpetuity.

Reason: To protect the residential amenities of the future occupiers of the residential units.

10. Site preparation or construction works shall not take place outside the hours of 0800 and 1800 Mondays to Fridays and 0800 and 1300 on Saturdays and not at all on Sundays or Public Holidays.

Reason: In the interests of neighbouring residential amenities.

11. All landscaping works shall be carried out in accordance with the landscaping drawings detailed in condition 1 of this consent and in the next planting season (November 2023-March 2024).

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

12. If within a period of three years from the date of the planting of any tree that tree or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

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

13. No dwelling shall be occupied until the individual driveway and parking bays serving the dwelling have been laid out as approved and completed in permanent materials at gradients that do not exceed 8.33% (1 in 12) in accordance with the approved layout and shall be retained thereafter for parking purposes in perpetuity.

Reason: To ensure the provision and retention of sufficient off street parking in the interests of highway safety.

14. No dwelling shall be occupied until the internal access roads serving the dwellings and visitor parking bays have been laid out as approved and completed in permanent materials at gradients that do not exceed 8.33% (1 in 12) in accordance with the approved layout.

Reason: In the interests of highway safety.

15. The garages hereby approved shall only be used as a private garage and at no time shall they be converted to a room or living accommodation.

Reason: To ensure that adequate parking facilities are provided within the curtilage of the site.

16. No individual vehicular access from this development onto Birch Walk or Church Street will be permitted.

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

17. No structure, erection or planting exceeding 0.6 metres in height above adjacent carriageway level shall be placed within the required vision splay areas at any time.

Reason: In the interests of highway and pedestrian safety.

18. The development shall be implemented in accordance with the details submitted on the 18 June 2021 and agreed by the Local Planning Authority on 21 June 2021 which demonstrates the infiltration tests, comprehensive and integrated drainage of the site. The scheme shall be implemented prior to the beneficial use of the dwellings commencing.

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

19. The development shall be implemented in accordance with the revised Construction Environmental Management Plan Rev. C submitted on the 20 May 2021 and agreed by the Local Planning Authority on 21 June 2021. The approved details shall be implemented as agreed.

Reason: To protect the residential amenities of the future occupiers of the residential units.

20. The development shall be implemented in accordance with the Written Scheme of Investigation (WSI) for an archaeological watching brief prepared by EDP (dated January 2021, ref edp5078_r009a) submitted on 4 March 2021 and agreed by the Local Planning Authority on 21 June 2021. Thereafter, the approved programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.

Reason: To identify and record any features of archaeological interest discovered during

the works, in order to mitigate the impact of the works on the archaeological resource.

21. The development shall be implemented in accordance with the agreed details by the Local Planning Authority on 21 June 2021 which demonstrates the provision of a 2-metre segregated footway on the eastern side of the main north/south shared surface route within the site. The approved segregated footway shall be constructed and implemented in permanent materials before the development is brought into beneficial use and retained in perpetuity.

Reason: In the interests of highway and pedestrian safety.

22. The development shall be implemented in accordance with the revised Footpath tie-in detail drawing ref no. 190902_TWC_H_003 Rev C submitted on the 17 June 2021 which demonstrates the provision of a continuation of the footway on Birch Walk adjacent to the site's eastern boundary with crossing points and agreed by the Local Planning Authority on 21 June 2021. The approved scheme shall be constructed and implemented in permanent materials before the development is brought into beneficial use and retained in perpetuity.

Reason: In the interests of highway and pedestrian safety.

23. The development shall be implemented in accordance with the agreed details by the Local Planning Authority on 21 June 2021 which demonstrates the provision of an Active Travel route comprising of a 3 metre wide shared use path to link from the private drive of the 5 residential dwellings located adjacent to public open space to the east west tree lined shared use route. The approved scheme shall be constructed and implemented in permanent materials before the development is brought into beneficial use and retained in perpetuity.

Reason: In the interests of highway and pedestrian safety and to meet the requirements of the Active Travel Act 2013.

24. The development shall be implemented in accordance with the Revised Site Layout Plan – Drawing Ref No. NEWT- 21-04-15 – REV F and Visitor Parking Plan received on the 16 June 2021 and agreed by the Local Planning Authority on 21 June 2021 to demonstrate indicative on-road or off-road visitor parking within the site. The approved 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.

25. The development shall be implemented in accordance with the agreed details by the Local Planning Authority on 21 June 2021 which demonstrates the surface treatment of the internal highway and footway network within the site. The approved scheme shall be constructed and implemented in the agreed permanent materials before the development is brought into beneficial use and retained in perpetuity.

Reason: In the interests of highway and pedestrian safety.

26. The development shall be implemented in accordance with the agreed details by the Local Planning Authority on 21 June 2021 which demonstrates the provision of a 2 metre footway with crossing points on the site's western boundary on Church Street linking the cycle and pedestrian shared use route to the Public Right of Way on Bryneglwys. The approved scheme shall be implemented in permanent materials before the development is brought into beneficial use and retained in perpetuity.

Reason: In the interests of highway and pedestrian safety and to meet the requirements of the Active Travel Act 2013.

27. The development shall be implemented in accordance with the agreed details by the Local Planning Authority on 21 June 2021 which demonstrates the provision of 1 secure cycle parking space per bedroom per unit has been submitted to and approved in writing by the Local Planning Authority. The spaces shall be implemented as agreed before the development is brought into beneficial use and retained as such thereafter in perpetuity.

Reason: In the interests of promoting sustainable means of travel to/from the site and in compliance with Table 8.1 of The Active Travel Act- Design Guide.

28. The development shall be implemented in accordance with the agreed details by the Local Planning Authority on 21 June 2021 which demonstrates the provision of bollards or vehicle restraint on the main proposed cycle/pedestrian shared use route between running east to west. The approved scheme shall be implemented in permanent materials before the development is brought into beneficial use and retained in perpetuity.

Reason: In the interests of highway and pedestrian safety.

29. The development shall be implemented in accordance with the revised Site Layout Plan – Drawing Ref No. NEWT- 21-04-15 – REV F received on the 16 June 2021 and agreed by the Local Planning Authority on the 21 June 2021 which demonstrates the provision of an external electrical point on each dwelling, capable of connecting to an EV charging point. The approved scheme shall be implemented before the development is brought into beneficial use and retained in perpetuity.

Reason: In the interests of meeting net zero carbon by 2030 targets set by Welsh Government.

30. The development shall be implemented in accordance with the revised Construction Traffic Management Plan and Traffic Management Plan submitted on the 16 June 2021 and agreed by the Local Planning Authority on the 21 June 2021. No development shall commence on site until a Construction Traffic Management Plan has been submitted to and agreed in writing by the Local Planning Authority. The construction works and traffic shall thereafter be undertaken in accordance with the agreed Construction Management Plan throughout the construction phase.

Reason: In the interests of highway and pedestrian safety.

31. The development shall be implemented in accordance with the revised Site Layout Plan – Drawing Ref No. NEWT- 21-04-15 – REV F received on the 16 June 2021 and agreed by the Local Planning Authority on the 21 June 2021 which demonstrates the location of refuse and recycling collection points in respect of the apartments on Plots 23-30 inclusive. The collection points shall thereafter be constructed in accordance with the agreed design prior to the dwellings which they serve being brought into beneficial occupation and retained in perpetuity.

Reason: In the interests of highway safety.

32. ****THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS****
a. The original application was recommended for approval because the development complies with Council policy and guidelines as sufficient justification has been submitted for the loss of the existing Rectory building and the proposed scheme

does not have a significantly adverse effect on the character and appearance of the Newton Conservation Area, surrounding residential area or on the amenities of existing residential properties. All material considerations have been addressed and Officers have fully considered and responded to the concerns of local residents. Whilst it is inevitable that new development will have some impact on existing residents, it is considered that the impact will not be unacceptable in Planning terms particularly having regard to the mitigation measures proposed. In addition, it is considered that the development will not have an adverse effect on the biodiversity of the site, drainage, noise, archaeology or highway safety in and around the site.

- b. This application is recommended for approval because the development complies with Council policy and guidelines and would not adversely affect the character and appearance of the existing street scene and which seeks to enhance the Newton Conservation area nor significant harm nature conservation or biodiversity. The concerns raised by the neighbours are acknowledged however, in this case and on balance they are not considered to outweigh the other material issues connected to the development as to warrant refusal on those grounds.
- c. The applicant is advised that the archaeological work must be undertaken to the appropriate standard and guidance set by the Chartered Institute for Archaeologists and it is recommended and that it is carried out either by a CIFA registered organisation or a MCIFA level accredited member.
- d. 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 Council prior to beneficial occupation of the first dwelling house in the street that has been so allocated.
- e. An information pack containing public transport information including timetables shall be provided by the developer on occupation of each residential unit.
- f. The Developer is reminded that consent under the Town and Country Planning Act 1990 conveys no approval under the Highways Act 1980 for works to be undertaken affecting any part of the public highway including verges and footways and that before any such works are commenced the developer must:
 - obtain the approval of Bridgend County Borough Council as Highway Authority to the details of any works to be undertaken affecting the public highway;
 - indemnify the County Borough Council against any and all claims arising from such works;
 - give not less than one calendar month's notice in writing of the date that the works are to be commenced to the Policy, Development and Transport Team Leader, Bridgend County Borough Council, Civic Offices, Angel Street, Bridgend. Telephone No. (01656) 642541.
- g. The applicant may need to apply to Dwr 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 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

- h. 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 Dwr Cymru Welsh Water 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.
- i. The developer is advised that works can not proceed until a European Protected Species licence (EPSL) is granted from Natural Resources Wales
- j. The applicant is advised that 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 or not), intentionally or recklessly obstruct access to a place used for shelter and protection.
- k. Consideration should be given to the provision of nest boxes within the building development for bat and bird species. Suitable bird species include house sparrow, swift and house martin, species which are declining in number due to a reduction in suitable nest sites. Further information can be found on page 55 section 16.0 in the SPG
- l. If feasible in the proposed scheme, the incorporation of bat bricks, bat tiles and bat boxes into the development, would provide summer roosting opportunities for bats and would contribute to the environmental sustainability of the development. Further information can be found on page 46 section 7.0 of the SPG.
- m. Incorporation of biodiversity enhancements will help contribute to the environmental sustainability of the development. Such enhancements will demonstrate local authority compliance with Section 6 of the Environment (Wales) Act 2016 that places a duty on public authorities to 'seek to maintain and enhance biodiversity' so far as it is consistent with the proper exercise of those functions. In so doing, public authorities must also seek to 'promote the resilience of ecosystems'.

JANINE NIGHTINGALE
CORPORATE DIRECTOR COMMUNITIES

Background Papers

None

- REFERENCE:** P/14/838/FUL
- APPLICANT:** Barratt South Wales C/O L R M Planning Ltd, Sophia House, 28 Cathedral Road, Cardiff, CF11 9LJ
- LOCATION:** Land east of Cwm Felin & south of Craig Terrace/Ebenezer Terrace, Blackmill, Bridgend CF32 8RS
- PROPOSAL:** Erection of 28 affordable residential dwellings, car parking, landscaping and associated works

BACKGROUND INFORMATION

On 16 February 2017, the Development Control Committee deferred determination of this application to allow the applicant company to review the layout and design of the development in conjunction with local residents and the local Member. The application at that time proposed a development of 36 dwellings accessed via an un-adopted estate road that already served the existing Cwm Felin estate. A 5m high acoustic barrier was proposed along the eastern development boundary which is shared with an industrial operation on Isfryn Industrial Estate. Additional noise mitigation works within the neighbouring business were required and would have been secured through a Section 106 Agreement along with the provision of 2 affordable housing units and £20,000 towards existing/future community buildings. The establishment of a management company to manage the acoustic barrier and all (un-adopted) drainage systems would also have been part of the Agreement.

A report on the application had been presented to the Development Control Committee a month earlier (January 2017) where Members had resolved to refuse planning consent with the main areas of concerns being: (i) the visual impact of the proposed acoustic fence on the adjacent residents and surrounding area. (ii) The potential for the development without the noise mitigation measures to compromise the viability of the adjacent commercial operation; (iii) the development having an unacceptably high density, evidenced by a deficiency in parking provision and a lack of private amenity space which would be to the detriment of the living conditions and well-being of existing and future residents; and (iv) the development could result in surface water flooding to the adjacent commercial land and the existing properties in Cwm Felin.

Rather than refuse permission, the application was deferred and since 2017, the applicant company have submitted various housing layout plans, accompanied by technical reports including flood consequence assessments, noise assessment and ecology reports. Throughout this process, consultees and residents have been invited to comment on the submissions and their comments are retained on file.

In July 2022, Barratt Homes South Wales Ltd submitted a revised proposal to construct 28 affordable homes on the land and that is the proposal that Members are being asked to consider.

APPLICATION/SITE DESCRIPTION

The application site is a vacant area of land situated between Isfryn Industrial Estate to the east, existing housing on Cwm Felin to the west and the Ogwr Fach River to the south, in the village of Blackmill. Since the application was last considered by Committee a Welsh Medium Childcare Facility has been approved on land to the east (at the junction of the Isfryn Estate road and Ebenezer Terrace (A4093)). Although constructed, the facility is not operational.

The latest layout plan proposes a mix of 2-bedroom and 3-bedroom dwellings and 1-

bedroom flats sited around an estate road that initially follows the alignment of Cwm Felin before turning 90 degrees and continuing to a turning area in the north-western part of the site. Plots 1-4 will be a terrace with parking areas to the front and side and positioned with the side elevation of Plot 1 facing the shared boundary with 26-28 Cwm-Felin. Plots 5-6, a pair of semi-detached units, will include parking bays to the front and will have rear elevations facing 24 and 25 Cwm Felin. Plots 7-9, a terraced block, will have a similar alignment with parking to the side and front and the rear elevation facing the rear elevations of 21-23 Cwm Felin. The terrace block on Plots 10-12 will front the new estate road with the rear elevations overlooking the northern boundary of the site which is a tree-lined bank that rises to Ebenezer Terrace. A dedicated parking area will be formed on the eastern side of the units.

Plots 13-26 will accommodate the 1-bedroom flats in a crescent form that adjoins the eastern boundary which is shared with Isfryn Industrial Estate. These single aspect units have no window openings on the rear and they form an acoustic barrier along with the fences and carports that lie between the unit blocks. Set back from the estate road, the intervening areas fronting the flats will be landscaped and used for parking in the form of bays and driveways. Amenity space for the future residents of the flats and this phase of the development will be provided on an area to the rear of Plots 24-28. An informal area of open space with seating areas will also provide biodiversity mitigation and enhancements. Units 27 and 28 will comprise a pair of semi-detached units facing the estate road and following on from the link units on 29-32 Cwm Felin. Driveway parking to the sides of the dwellings will be provided.

All units of accommodation will be two storeys although the three different house types will offer a subtle variation in scale and massing. In terms of appearance and architectural style, the material palette will reflect the adjacent housing on Cwm Felin. The proposed finishing materials to the external walls of the proposed units will be formed using a mixture of yellow and red facing brick with a variation of brick detailing and grey tiled roofs. The highway will be formed in traditional black top material with the raised surfaces being formed of block paving. Boundary treatment will comprise a mix of 1.8m high screen walls and fences. Acoustic fencing to a height of 2.2m will be erected along the rear boundaries of Plots 13-25.

The application has been accompanied by the following technical reports:

- Noise Assessment Report 3187/ENS2_Rev3 dated 8 May 2019 & Technical Note 3187/TN1_Rev3 by Hunter Acoustics dated 13 July 2022
- Flood Consequence Assessment by Grays (GRYS-7220-REP02-FCA-R5) and Associated Flood Modelling (August 2022)
- Preliminary Ecological Appraisal by Acer Ecology – September 2021
- Bat Survey Report and Reptile Survey by Acer Ecology – November and December 2021

In a supporting letter Barratt South Wales Ltd have set out how the revised application seeks to address the previous draft reasons for refusal

Reason 1: The 5m acoustic fence which forms part of the required noise mitigation works would, by reason of its scale and proximity dominate the outlook from the existing and proposed housing estate and would detract from the visual amenities to the area, contrary to Policy SP2 Design and Sustainable Place Making of the Bridgend Local Development Plan (2013).

Due to the location of the manufacturing unit to the east of the site, the site is constrained in respect of the potential impact of noise on the development however, Barratt's have

been proactive and engaged closely with the Local Planning Authority to discuss the best possible design layout and noise mitigation measures. Under the previous submission a 5m acoustic fence was proposed to form part of the noise mitigation works however, following the concerns raised regarding the fence, several design changes have been made to represent best acoustic design in accordance with Policy SP2 Design and Sustainable Placemaking.

Through the creation of a bespoke architectural approach, one bed walk-up flats are proposed to the eastern boundary of the site providing an improved housing mix but also enclosing the site from the manufacturing units. Habitable rooms are focused to the front of the property with the critical rear boundary screened by dwellings and car ports. Given the typical occupiers of the units (single occupants and couples as opposed to families) combined with the provision of open space nearby and the United Welsh Housing Association being happy with the proposed development, the lack of private gardens is not considered to cause any amenity issues. In addition, the area to the front of the walk-up flats is well landscaped to provide an attractive environment outside residents' front doors.

Reason 2: The failure to successfully implement the noise mitigation works set out in the Hunter Acoustics' Environmental Noise Survey 3187/ENS 1_Rev1 dated 17 December 2014 in association with the proposed development would be likely to lead to complaints from future occupiers of the housing estate and would compromise the viability of the adjacent commercial site which is allocated and protected for employment development under Policy REG1 of the Bridgend Local Development Plan (2013)

The proposed scheme removes the need for such measures to be secured and implemented. A planning condition can be attached to any forthcoming planning approval to ensure the car ports are kept in perpetuity.

Reason 3: The proposed housing layout constitutes an unacceptably high building density evidenced by a deficiency in car parking spaces for the proposed three bedroom units and the inappropriate allocation of car parking spaces for the future residents, a lack of both private and public amenity space and the close proximity of the proposed housing to existing residents which would be to the detriment of the living conditions and well-being of existing and future residents, contrary to Policies SP2 Design and Sustainable Place Making, Design and PLA11 – Parking Standards of the Bridgend Local Development Plan (2013) and advice contained with Supplementary Planning Guidance Note 17 – Parking Standards (2011).

The key areas of concern relate to density, parking and amenity. In regard to the building density, the scheme has been significantly reduced from 36 dwellings under the original submission to 28 dwellings. Comparing the new layout to the original application submission, the reduction in units has allowed for an increased distance between the existing and proposed properties to ensure that the living conditions and wellbeing of existing residents within the Cwm Felin estate will not be negatively impacted. Moreover, the reduction in units has also allowed for the site to be reconfigured to improve the design in line with Policy SP2- Design and Sustainable Placemaking. The formal crescent shaped built form arrangement will form both the gateway to the site entrance and attractively enclose the vista from the main entrance into the site. A high-quality focal space with distinctive surface treatments and high-quality landscape design will mark a sense of arrival into the site, benefitting the new residents and the existing residents of the area. The crescent then terminates in a high-quality pedestrian focused environment defined by shared spaces and private drives. Furthermore, car parking is now provided in accordance with the Council's Supplementary Planning Guidance Note 17- Parking Standards (2011).

Reason 4: The application fails to demonstrate that existing surface water can be disposed of in a manner that would not result in surface water flooding to the adjacent commercial land and the existing properties on Cwm Felin. The proposal therefore does not accord with Policy SP2 Design and Sustainable Place Making.

Revised flood modelling and a flood consequence assessment submitted as part of this application have demonstrated that the proposed scheme will cause no third-party detriment. Furthermore, the evidence indicates that there will be a reduction of flood risk to Phase I as a result of the development of Phase II.

RELEVANT HISTORY

Application Reference	Description	Decision	Date
P/05/1425/FUL	Erect 26 Dwellings with associated highways & engineering works -	Refused	23-12-2005
P/07/340/FUL	32 dwellings & associated works plus Community Centre	Refused	05-11-2007
P/08/591/FUL	32 dwellings & associated works and Community Centre	Refused	27-11-2009
P/09/691/OUT	Mixed use development comprising 44 dwellings, Community Centre & employment units	Application Withdrawn	

CONSULTATION RESPONSES

CONSULTEE

Community Council:

COMMENTS

No comments received to the amended plans received in July 2022. Ogmore Valley Community Council did however provide comments on the application as it was presented to the Development Control Committee in 2017 and objected to the development for the following reasons:

- Highway through Cwm Felin (Phase 1) which has not been adopted and is not fit for extra traffic
- Car parking not enough on plan, already problems with Phase 1 due to insufficient place for parking
- Threat to factory if residents complain about future noise problems
- Is sewerage system able to cope with extra load?
- That any future resident/tenants are not affected by the noise from the factory. The factory must be protected from possible noise complaints against them.

Cllr Hywel Williams - Local Member

My concerns are maintenance of the Drainage and the acoustic Fence, also I have raised this with the street cleaning team, communal bin collection sites are a problem for the Council and should not be encouraged.

Highways

No objection subject to conditions.

Land Drainage

No objection subject to conditions.

Countryside Management/Ecology

No objections subject to conditions.

Shared Regulatory Services

No objection subject to conditions.

Dwr Cymru Welsh Water

We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site.

We note from the submitted drainage strategy the applicants' intentions are to divert a public sewer under section 185 of the Water Industry Act 1991 to allow for their proposal. We can offer our support for this application but would not be able to comment on the acceptance of the submitted diversion plan. This would be for one of our engineers to vet as part of a submitted Section 185 application. We would encourage the applicant to contact one of our engineers to engage in discussions as soon as possible.

Should it be determined that SAB consent is not required, we request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes listed below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

Natural Resources Wales

No objection subject to conditions.

The Coal Authority

In considering the amendments to the scheme, the Coal Authority does not wish to raise any specific observations. We would, however, reiterate our comments of 2 June 2015, which remain valid (i.e., no objections).

PUBLICITY

The application has been advertised on site.

Neighbours have been notified of the receipt of the application.

The period allowed for response to consultations/publicity has expired.

Residents have been consulted on the amended scheme and have submitted individual letters of objection. A joint letter of objection on behalf of the occupiers of the following properties has also been submitted:

3, 4, 5, 9, 13, 16, 21, 22, 24, 25, 27 28, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 41, 42, 46, 47, 48, 49, Cwm Felin; Blackmill & Glynogwr Residents & Tenants Association and 2 Mount Pleasant, Blackmill.

The following is a summary of the objections received:

Land Drainage/Flooding - residents ask for the opportunity to make further comment upon the flooding issue once NRW have provided their comments on the application

The site is a very wet and poorly managed by landowner - excavations made in various

locations have resulted in localised ponding all resulting in a landform which has exported surface waters to Phase I properties at times of sustained rainfall – a matter noted in the flood consequence assessment

There are some aspects of the latest CD Gray report (Flood Consequence Assessment) that have been questioned by the residents -

Para 5.4.2 states that, in the context of groundwater flooding, the site is 'wholly within an area of negligible risk'. This assertion appears to be solely reliant upon evidence of published desk top studies - this has been a long-standing matter of concern to residents of Phase I – this could re-occur on Phase II.

Residents in Phase I have been affected by surface water run-off from the embankment serving the A4093 - Barratts' assertion is that this outcropping is due to road drains but this occurs during dry periods – residents contend that this outcropping is a feature of the local geology/hydrology and is caused by groundwater from the hills to the north - this matter is being completely ignored by Barratts and their consultants, and is storing up trouble for the intended future owner and residents of the Phase II site.

Para 6.1 states that there is no formal record of any flooding events on this site – the applicant company are fully aware of multiple events of flooding - the report is incorrect to ignore such events.

Para 16.5 asserts that 'no significant ponding would be experienced on the development site'. However, we note that an earlier Flood Consequences Assessment a 'Flood Compensatory Area' was to be created in the unbuilt-upon southern portion of the site – this has been omitted but with no explanation

This current scheme includes a 2.2-metre-high acoustic barrier, has this barrier been considered in the Flood Consequence Assessment?

Flood risk applies as much to the construction phase as it does to the final landform, and as it has been stated above that there is an unfortunate history of floodwaters migrating from Phase II to affect the existing Phase I development. What measures will be taken to protect the Phase I development from flooding during construction, and in particular at what stage in the program of works will the unnamed watercourse be reinstated?

The Applicant should be required to appoint a suitably competent and accredited independent engineering consultant to oversee the land drainage and flood prevention measures and to validate that the approved design of works are actually carried out.

Noise - this development may prove to be a 'bad neighbour' development in noise terms which could rebound on the factory operator to threaten much needed local employment.

Car Parking - limited opportunity within the site layout for visitor and informal parking, we are concerned that there will be overspill of parked vehicles into the Phase I site. In the last two years or so, the lack of informal parking space in Phase I has resulted in an increasing number of vehicles being parked overnight on the bend in the road leading into the site, and we are concerned that the limited parking provision in Phase II will add to the parking here.

Access and Movement - highways previously submitted a supplementary report concerning the dimensions of the manoeuvring areas for refuse collection and recycling vehicles provided in the proposed site layout at that time. Are the dimensions provided here as shown on Hammond drawing 2268/AM-01 acceptable to the Authority?

Other residents have questioned the suitability of the existing estate road to serve additional traffic and the potential for conflict to be generated between pedestrians (including young children) and vehicles

Proximity to Phase I Houses - one of the issues of concern in previous designs relates to the height and proximity of the proposed housing to the backs of no's 21 and 22 Cwm Felin located in the north-east corner of the Phase I site. These two houses are overshadowed at the front by the side wall and roof of a garage block, and by trees located in the adjacent banking to the front and rear of the properties which are not in the ownership of the householders. The ground levels surrounding the buildings in these latest proposals now appear to be 0.32 metres higher than at that time.

Other residents have expressed the following concerns:

- **Garden areas will be overlooked by new development**
- **Social housing will de-value property**

On 23 January 2023, another joint letter of objection was submitted on behalf of the residents listed above. Much of the content was a review of the observations received from Natural Resources Wales to the latest flood consequence assessment. A summary of the main issues is provided below:

- Have all the outstanding concerns regarding river flows, ground levels and the management and maintenance of the flood compensatory area been addressed
- Are NRW satisfied that the modelling used now accurately reflects the newest arrangements, and, crucially, the proposed topography – can residents have faith in the outcome of the report
- References to increases in flood depths and velocities in the culvert under the A4093 is not being addressed – no measures are proposed to deal with this matter – is this issue for the Council to investigate?
- No regard has been given to the outcropping of water from the embankment above Phase I

COMMENTS ON REPRESENTATIONS RECEIVED

The objections offered by residents align with the main issues to be considered in the determination of the application and will be addressed in the appraisal section of this report. Concerns that the development of social housing will de-value property is not evidenced and in any event would not be material to the determination of the application.

RELEVANT POLICIES

Local Policies

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

Policy PLA1 Settlement Hierarchy and Urban Management

Policy PLA3 (17) Regeneration and Mixed-Use Development Schemes

Policy SP2 Design and Sustainable Place Making Policy

Policy SP3 Strategic Transport Planning Principles

Policy PLA5 Development in Transport Corridors

Policy PLA11 Parking Standards Policy

Policy ENV5 Green Infrastructure

Policy ENV6 Nature Conservation

Policy ENV7 Natural Resource Protection & Public Health (Noise Pollution, Contamination)

Policy REG1 Employment Sites – Isfryn Industrial Estate (31)

Policy REG 2 Protection of Identified Employment Sites
Policy COM2 (4) Residential Allocations outside the Strategic Regeneration Growth Areas
Policy COM4 Residential Density
Policy COM5 Affordable Housing
Policy SP13 Social and Community Facilities
Policy COM11 Provision of Outdoor Recreation Facilities
Policy SP14 Infrastructure

SPG 5 Outdoor Recreation Facilities and New Housing Development
SPG 7 Trees and Development
SPG 13 Affordable Housing
SPG 16 Educational Facilities and Residential Development
SPG 17 Parking Standards
SPG 19 Biodiversity and Development

National Policies

In the determination of a planning application regard should also be given to the requirements of National Planning Policy which are not duplicated in the Local Development Plan.

The following Welsh Government Planning Policy is relevant to the determination of this Planning application:

Future Wales – the National Plan 2040
Planning Policy Wales Edition 11
Planning Policy Wales TAN 5 Nature Conservation and Planning
Planning Policy Wales TAN 11 Noise
Planning Policy Wales TAN 12 Design
Planning Policy Wales TAN 15 Development and Flood Risk
Planning Policy Wales TAN 18 Transport
Planning Policy Wales TAN 23 Economic Development

WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015

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

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

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

THE SOCIO-ECONOMIC DUTY

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

the duty has been considered in the assessment of this application.

APPRAISAL

The application is referred to the Development Control Committee for determination in view of the number of objections received.

The main considerations in the assessment of this application relate to the following:

- whether the form of development proposed accords with the site's allocation in the Bridgend Local Development Plan
- the effect of the proposal on the character and amenities of the area, specifically those enjoyed by existing residents
- the effect of the development on the highway network and highway safety generally and whether sufficient parking facilities can/are being provided,
- whether the development would impact on the adjoining employment site which is allocated and protected under policies of the Bridgend Local Development Plan.
- the impact of the scheme on the natural environment
- the effect of the development on the existing drainage systems and connected flood risk and
- Whether contributions need to be secured through a Section 106 Legal Agreement to mitigate the impact of the development and to comply with policy.

Whether the form of development proposed accords with the allocation of the Bridgend Local Development Plan

Under the Bridgend Local Development Plan (2013), the application site is allocated for Regeneration and Mixed-Use Development (Policy PLA3 (17) refers) where it was intended that the site would accommodate a mix of uses comprising residential, work units and local community facilities. The allocation reflected the resolution to grant permission for a mixed-use development submitted as part of a 2009 application. A change in site circumstances, namely the revised noise profile associated with the Coppice Alupack operation and the resultant reduction in the developable area, prevented the delivery of the original scheme.

This revised application, according to the supporting planning statement, has sought to address the identified constraints and bring forward the residential element of the mixed-use allocation. Policy COM2 (4) is part of the allocation and indicates that a development of 43 units could be delivered on land surrounding the Cwm Felin estate. The quantum of housing was based on a different site area and layout nevertheless, the proposed development corresponds directly with the LDP planning policy allocation for residential development and broader support for developing brownfield and under-utilised land for housing.

The application proposes 100% affordable housing with Barratt Homes partnering with United Welsh Housing to deliver the scheme. The planning statement reminds the Council of the national policy support to increase the supply of affordable housing and has quoted the current shortfall in provision within the County Borough. Furthermore, it is suggested that the mix of housing proposed will meet a specific local need.

Overall, the scheme fails to deliver all the elements of the mixed-use allocation with the omission of the employment provision (this was originally to be 'Live Work' and starter units) and the levels of community benefit which previously included a new multi-purpose building. Development viability has however been significantly affected by the reduction in the housing numbers and delivering all the elements of the original allocation and obligations is no longer achievable, a position that was not challenged by Members when this application was considered by the Development Control Committee in 2017. Since the

application was last considered by Members, part of the allocation has been developed as a Welsh Medium childcare facility.

Whilst the development will not realise the economic benefits of earlier submissions it will deliver much needed affordable housing on a brownfield site within a settlement and on this basis the principle of the site being developed for housing is accepted.

The effect of the proposal on the character and amenities of the area, specifically those enjoyed by existing residents

National policy confirms that new housing developments should be well integrated with and connected to the existing pattern of settlements. In determining applications for new housing, Local Planning Authorities should ensure that the proposed development does not damage an area's character and amenity. Increases in density help to conserve land resources and good design can overcome adverse effects but where high densities are proposed, the amenity of the scheme and surrounding property should be carefully considered. At a local level Policy SP2 requires all development to respect and enhance local character whilst also protecting the amenities of existing residents.

Objectors have highlighted the difference between the existing Cwm Felin estate and the proposed development in terms of housing mix, density and the scale of the development. Specific reference has been made regarding the relationship of the new housing to 21 and 22 Cwm Felin, located in the north-east corner of Phase I. Other residents have suggested that existing garden areas will be overlooked.

National policy requires applicants to demonstrate and justify how they arrived at a particular mix of housing with specific reference to local housing need and with the objective of creating sustainable cohesive communities. As stated in the previous paragraphs, the application seeks to deliver 100% affordable housing in response to the national policy requirement to increase the supply of such schemes. The Council's 2019/2020 Local Housing Market assessment has been referenced which indicates a shortfall and a specific need for accessible one-bedroom units in the Ogmere Valley area. Three house types will provide a range of 1 bed-flats (14) and 2 and 3 bedroom dwellings (12 and 2) at a density that accords with the policies of the current plan. The higher proportion of 1 bed units is the developer's response to a specific local need.

In terms of scale and design, all units will be two storey which reflects the existing residential vernacular in Phase I. Apart from the proposed flats, the level of amenity space is also comparable with the majority of the properties having garden lengths of 10m. On the matter of mix, density and scale, the residents' concerns are noted but do not represent grounds to refuse this revised layout.

The developer recognises that the layout has been influenced by the need to achieve an optimum acoustic design which includes the bespoke one bed single-aspect flats. Hard and soft landscaped areas including parking will be provided to the front of the units but they will lack private useable space. The developer suggests that given the units will be occupied by single persons or couples, the demand for private garden space is not so critical and have also indicated that the Housing Association is content with the arrangement which would need to be compliant with the Welsh Government's Design Quality Requirements (DQR). The lack of space for the flats is a design compromise and in general, schemes should be providing space even small balconies on flatted development. Site constraints will not permit such an arrangement. Overall, the amenities that will be afforded to the future occupiers of this development will just reach an acceptable level.

The site lies immediately adjacent to the eastern boundary of Phase I with the applicant's

supporting statement indicating that careful consideration has been given to the proposed layout to ensure that the amenity of the adjacent existing residents is not unduly harmed. The layout and house-type drawings have been submitted along with engineering plans that indicate the existing and proposed site levels.

The proposed units on Plots 5 and 6 and the terrace block on Plots 7-9 will include rear facing habitable room windows that will overlook the shared boundary which is defined by a 1.8m fence and the rear elevations of 21-25 Cwm Felin. Based on the plans, the minimum privacy standard of 21m will be achieved between Plots 5 and 6 and 24 Cwm Felin to the rear. The distance is however marginally compromised between Plots 7-9 and 21 and 22 Cwm Felin – the developers have confirmed that a back-to-back distance of 20.6m will be achieved. If that measurement is taken to internal finished wall within the habitable room, a distance of 21m will be achieved. It should be noted that the floor levels of the proposed dwellings on Plots 5-9 will be 0.9m above the levels of the existing properties however, even accounting for this increase, the separating distance will ensure that the outlook from the existing properties will not be dominated or overshadowed to such a degree to warrant refusing consent. The applicant company are providing cross-sections through this part of the development which will be available for Members to view in the Committee meeting. Whilst it is understandable that from the occupiers' perspective the outlook will dramatically change, when considered against the Council's standards, the impact is not unacceptable.

The proposed dwellings on Plots 1 and 28 of the submitted layout also adjoin the site boundary which is shared with existing dwellings on Cwm Felin. Plot 1 will be occupied by a two-storey end of link property separated from the shared boundary by parking spaces. A distance of 16m between the rear windows in 27 and 28 Cwm Felin and the side elevation of the dwelling on Plot 1 is recorded on the submitted plans which accords with the guidelines regarding domination of outlook and overshadowing. Even accounting for the proposed levels of the new dwelling which will be 0.8m above the neighbouring properties, the impacts should not be so significant as to seriously detract from the living conditions of the occupiers of the existing properties.

More generally, a number of residents have expressed concerns that gardens will be overlooked. Where direct overlooking may take place from the new housing, the layout has incorporated sufficient space to comply with the Council's standards. Existing residents that face the development site currently enjoy an uninterrupted outlook and generous levels of privacy – they will be reduced by the development but not to levels that would represent a serious breach of the Council's privacy guidelines.

The designer's response to this challenging site is to propose a layout that will not adversely affect the amenities of the existing residents or the area more generally. Conditions will be required to control levels, boundary treatment and, on certain plots, permitted development rights to allow the Council to control any future alterations to those dwellings that lies closest to existing properties.

The effect of the development on the highway network and highway safety generally and whether sufficient parking facilities can/are being provided

A key objective of Planning Policy Wales – Edition 11 is to ensure that new development is located and designed in a way which minimises the need to travel, reduces dependency on the private car and enables sustainable access to employment, local services and community facilities. This will be achieved through integrating development with sustainable transport infrastructure and designing schemes in a way which maximises provision and use of sustainable forms of travel including prioritising these modes over the private car. Delivering this objective will make an important contribution to decarbonisation, improving air quality, increasing physical activity and realising the goals of the Well-being

of Future Generations Act. Paragraph 4.1.10 of PPW confirms that the planning system has a key role to play by facilitating developments which:

- are sited in the right locations, where they can be easily accessed by sustainable modes of travel and without the need for a car
- are designed in a way which integrates them with existing land uses and neighbourhoods; and
- make it possible for all short journeys within and beyond the development to be easily made by walking and cycling.

Development proposals must seek to maximise accessibility by walking, cycling and public transport by prioritising the provision of appropriate on-site infrastructure and where necessary, mitigating transport impacts through the provision of off-site measures such as the development of active travel routes, bus priority infrastructure and financial support for public transport services.

Blackmill is recognised as a local settlement in both the adopted and replacement Local Development Plan and is capable of supporting some additional growth, particularly on underutilised or brownfield land. The village is reasonably well-served by public transport and access to active travel is available. It is however acknowledged that trips to places of work and major retail facilities are still likely to be made by car.

The revised site layout has been carefully considered by the Transportation and Development Control Team but has been the subject of objection by residents of Phase I concerned that the current demand for parking in Cwm Felin exceeds the provision which leads to significant on-street parking and a narrower running carriageway. If the parking provision on the new phase of development is deficient, this could exacerbate the problems. Parking provision for both residents and visitors on the revised layout does however accord with the Council's guidelines and the road has been designed to accommodate all servicing vehicles without any detriment to highway safety.

The Local Member has questioned the appropriateness of communal bin collection sites and has suggested that such facilities have been problematic elsewhere in the County Borough. Whilst no adverse comments have been received from the Cleaner Streets & Waste Management Section, it would be appropriate to impose a condition to agree a bin collection and waste management strategy given that the site will be managed by a Housing Association.

Whilst it is understood that the existing estate road serving Cwm Felin has not been adopted, that process is continuing and does not prejudice the determination of the new application. The adoption of Phase I and II will be a requirement of the proposed S106 agreement.

Whether the development would impact on the adjoining employment site which is allocated and protected under policies of the Bridgend Local Development Plan

Under Policy REG1 (31) of the Bridgend Local Development, Isfryn Industrial Estate is allocated and protected for employment uses. Planning Policy Wales – Edition 11 indicates that whilst employment and residential uses can be compatible, planning authorities should have regard to the proximity and compatibility of proposed dwellings to existing industrial and commercial uses to ensure that both residential amenity and economic development opportunities are not unduly compromised. (Paragraph 5.4.15 refers).

In 2017, Members of the Development Control Committee were concerned that any failure on the part of the developer to implement the noise mitigation works required as part of the scheme would be likely to lead to complaints from future occupiers which could compromise the continued operation of the manufacturing unit on Isfryn Industrial Estate. The mitigation measures included the erection of a 5m high acoustic barrier and various works within the Coppice Alupack plant including the introduction of white noise reversing alarms on the forklift trucks in operation and the provision of an alternative access arrangement to the existing warehouse to prevent the necessity for the forklift trucks operating at Coppice Alupack to sound their horns as they enter and leave the building.

A revised noise assessment has accompanied the amended housing layout which proposes a reduction in unit numbers, a layout incorporating a continuous block of single aspect dwellings/car ports in lieu of the 5m acoustic fence on the eastern boundary and all garden areas located on the opposite side to Coppice Alupack. In the noise assessor's view, the layout represents *best acoustic design with no habitable rooms on the critical boundary and all gardens screened by the dwellings. Noise modelling now demonstrates that an industrial noise rating level of no more than 5dB above background can be achieved in all gardens/outside plots across the development without treating the industrial noise at source. This is also achieved at all front facades containing habitable rooms with the exception of a marginal exceedance at the first-floor façade of plot 5. Additional sound insulation could be included on this plot.*

Colleagues in Shared Regulatory Services acknowledge that in terms of noise mitigation, the latest layout is the best that can be achieved with no habitable rooms on the critical boundary and no gaps between the houses which are bridged by mostly porches and some car ports with the peak of the roof ridge being 5m high for both. It is also noted that the 1-bedroom flats on the critical boundary have no garden areas to the rear but amenity space to the front and off-site. Officers have noted two properties where exceedances have been evidenced – Plots 5 and 18. Mitigation can however be provided and on that basis, there are no objections to the development offered by the statutory consultee.

Incorporating noise mitigation through the design and layout of the proposed housing is encouraged in national policy and on the basis of the evidence submitted with the application, it should ensure that the operation of Coppice Alupack should not be compromised by the introduction of new housing.

The impact of the scheme on the natural environment

Criterion (10) of Policy SP2 of the Local Development Plan (2013) seeks to ensure that biodiversity and green infrastructure is safeguarded. This follows the approach identified in Planning Policy Wales which confirms that Planning Authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity (Section 6 duty).

Regulation 9 of the Conservation of Habitats & Species Regulations 2010 requires Local Planning Authorities 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"

The application has been accompanied by a preliminary ecological appraisal (PEA) and reptile and bat surveys. In ecological terms, the site comprises a mosaic of marshy grassland, poor semi-improved grassland, scattered scrub and bare ground. Two areas of woodland lie at the northern end while the Ogwr Fach forms the southern boundary. Under the development proposals, the southern third of the site will be retained while the centre and north will be permanently lost to the development. Small areas of woodland in the north-eastern and north-western corners will be retained. There is, however, potential for indirect impacts to the woodland to occur, associated to root damage and inadvertent damage during the construction phase of works. Protective measures to avoid such impacts have been detailed by the applicant's consultant and will be secured through the consent.

The marshy grassland is considered to be of local ecological value. Whilst losses of habitat should be minimised where possible, the retention and enhancement of the southern third will help to offset losses.

The proposed development could potentially have adverse impacts of varying degrees on a range of legally protected species including nesting birds, foraging bats, otters, reptiles and hedgehogs. Appropriate mitigation measures are proposed as part of the development which includes the creation of a Wildlife Protection Zone in the southern part of the site which could support a reptile population. The creation and management of this ecological enhancement feature will be controlled through the S106 Agreement and conditions.

The PEA notes that Himalayan Balsam is present at the centre of the site while Japanese Knotweed has colonised the northern bank of the Ogwr Fach at the south. A specialist Invasive Non-Native Species contractor will be commissioned to produce a method statement and management plan dealing with the on-site Japanese Knotweed and Himalayan Balsam.

Subject to the scheme retaining and protecting the broadleaved woodland, the developer submitting and agreeing a construction environmental management plan (CEMP) and implementing all the mitigation measures and compensations works, the proposal accords with the requirements of Section 6 of the Environment (Wales) Act 2016, guidance contained within TAN 5: Nature Conservation and Planning (2009) and relevant LDP policies.

The effect of the development on the existing drainage systems and connected flood risk

National policy confirms that the climate emergency is likely to increase the risk of flooding as a result of increased storminess and more intense rainfall. Flooding as a hazard involves the consideration of the potential consequences of flooding as well as the likelihood of an event occurring. Councils should adopt a precautionary approach of positive avoidance of development in areas of flooding from rivers. The Development Advice Maps which are part of Technical Advice Note 15 inform decisions on the location of new development and the requirements necessary to support any applications. As a guide, development should reduce and must not increase flood risk arising from river flooding on and off the development site itself.

Grays (Consulting Engineers) Ltd were commissioned by the applicant company to undertake hydraulic modelling and an assessment of flood consequence to better understand the flood risk and the impact of the proposed development. As a residential

development the FCA recognises the scheme is classified as 'highly vulnerable' in accordance with TAN15. A small portion of the northern area of the site is shown to lie within Flood Zone A which is recognised to lie outside of the extreme flood risk outline. Most of the development site area lies within Flood Zone B which is designated as an area known to have been flooded in the past. The site also abuts a Flood Zone C2 area on the south-eastern corner which has deliberately been excluded from the developable area site boundary thereby allocating development to the lowest areas of flood risk.

The FCA provided the following summary and conclusions:

- Flood risk originating primarily from the unnamed watercourse running through the proposed development site to the Ogwr Fach on the site's immediate southern boundary is considered the dominant source of flood risk to the proposed development site.
- Hydraulic modelling has been undertaken to assess the flood risk and impacts of the proposed development under flood.
- By reinstating the unnamed watercourse and raising the proposed development plateau site levels, the entirety of the Phase 2 area will remain flood free even in the most extreme event of 0.1% (Q1000) AEP under normal flow conditions. This meets the criteria under TAN15 for highly vulnerable end use classification associated with new residential development.
- These measures also benefit the existing Phase 1 properties and reduce existing flood risk posed to these dwellings.
- The effects of flood risk on and resulting from the proposed development have been fully considered. This FCA demonstrates that there is a low risk of flooding affecting the development site.

NRW in their consultation response have confirmed the development area to be flood free in both the 1% (1 in 100 year) Annual Exceedance Probability (AEP) plus climate change flood event and most extreme 0.1% (1 in 1000 year) AEP event. As such, the Phase 2 development site is not directly impacted by flooding and safe and flood free refuge will be available to all residential properties. NRW note that the sole access and egress to Phase 2 is through Phase 1 which is shown to be at risk of flooding. The FCA indicates that shallow flooding may be experienced on part of the estate road but only to a depth of 0.3m which is within the acceptable limits of TAN15 and should remain passable by emergency vehicles in a flood event.

Regarding the impact of increased flooding elsewhere, the FCA states 'The only detriment indicated outside of the red line boundary is within the corridor of the re-instated watercourse itself'. NRW have indicated this is a consequence of the modelling approach and not resulting from the development. The review of the modelling report for the culvert under the A4093 shows an increase in flood depths and velocities on the road and at Glenview House. This is an issue irrespective of the development of Phase II and is a matter that the Council will have to consider outside the process of this application. It will not be caused by the development and in fact, the compensatory storage areas provided within the layout will offer an improvement.

From the sections which summarises the representations received, Members will note that residents have challenged the findings of the Flood Consequence Assessment and the position of Natural Resources Wales in withdrawing their original objections to the scheme. Grays, the consulting engineers who carried out the flood modelling and assessment and NRW were invited to respond to these issues raised by the residents.

NRW reaffirmed their position as a technical advisor to the local authorities on issues relating to the environment and natural resources. In line with the requirements of TAN15 a Flood Consequence Assessment (FCA) should be produced for any development at risk

of flooding. They confirmed that their role is to advise on the risk of flooding based on evidence presented in the FCA and undertake model reviews if applicable. This should then enable the authority to make a judgement on the acceptability and consequences of flooding. They have confirmed again that the latest flood modelling information shows that all the new built development (Phase 2) is not directly impacted by flooding. As this area is outside the modelled flood extents, it negates the need for flood compensation. In addition, it is shown that there is a reduction of flood risk to Phase 1 as a result of development of Phase 2.

Surface water run-off from the embankment to the north of Phase I has been an issue consistently raised by objectors with a number of residents having experienced flood events over a number of years. This appears to be an existing situation, possibly a matter for the Highway Authority to consider outside the determination of this application. The applicant company and their consultants are confident that the development of Phase II will not exacerbate the situation.

The concerns of residents as to the implications of this development on flood risk are understandable given the site's proximity to nearby water courses however, based on the technical advice received, the proposed development will not increase flood risk on and off the development site and is therefore compliant with national policy.

Whether contributions need to be secured through a Section 106 Legal Agreement to mitigate the impact of the development and to comply with policy

Policy SP14 of the Bridgend Local Development Plan requires applications for development to include material proposals to deal with the fair and reasonable infrastructural requirements of the development and to mitigate any negative impacts that may arise. The Council does acknowledge that development costs including the costs of implementing planning agreements may result in a scheme being unviable and in such circumstances the Council may consider the benefits of the development may outweigh the benefits of seeking to secure all infrastructural requirements.

Previous site layouts have been accompanied by viability appraisals that suggest that the levels of obligations previously sought could not be delivered based on a reduction in the unit numbers, higher development costs including abnormal costs associated with flood mitigation and ecology enhancements - the last appraisal was submitted back in April 2021.

Under the current policies of the plan, 20% of the proposed housing in this area should be affordable and secured by Agreement. At the quantum of development proposed, that would equate to 6 units although it is understood that all dwellings to be constructed will be affordable. An Agreement will still be required to control the number and tenure of the housing.

With regards to education, the size of the site meets the threshold of 5 or more residential units identified in SPG16 Educational Facilities & Residential Development as being large enough to place increased pressure on the educational facilities within the catchment area. Based on the quantum and tenure of development, a financial contribution would be required towards primary and secondary school places. From previous responses, it is understood that capacity exists within the schools to accommodate the pupils that would be generated by the development. The current position is being reviewed by colleagues in Education although based on the viability appraisals that have accompanied this application, the level of obligation that would normally be required could not be delivered.

Policy COM11 of the LDP requires the provision of satisfactory standards of open space from all residential development which is defined as 2.4ha per 1,000 people. BCBC's

Outdoor Sports & Children’s Play Space Audit (2017) shows a deficit of Equipped Play Areas and Outdoor Sport provision in this location and the following amount of open space is required to ensure compliance with COM11 of the LDP and SPG 5 – Outdoor Recreation Facilities and New Housing Development:

A development of 28 dwellings that meet the criteria for SPG5 would lead to an estimated development population of 50 (based on an average occupancy rate of 1.5 people per dwelling within proposed 1-bed flats, 2 people per dwelling within the proposed 2-bed houses, 2.5 people within the proposed 3-bed houses). As such:-

- the total amount of Designated Playing Space required should be approximately 125 sqm
- the total amount of Informal Playing Space required should be approximately 275 sqm
- the total amount of Outdoor Sport space should be 800 sqm

The Council’s Supplementary Planning Guidance indicates that wherever possible public open space should be within the boundaries of the development site as an integral part of the development. From the submitted layout plan (see extract below) over 2,000 square metres of open space will be provided which exceeds the total requirement set out in the formula above.



Figure 1 – Extract from Proposed Site Landscaping Plan

The submitted plans indicate that a landscaped informal area of open space with seating area will be provided. A ‘Wildlife Protection Zone’ will also be formed with the public open space to mitigate and compensate for the impacts on local biodiversity interests. Members should note that a play area has been provided within Phase I and this will be easily accessible from the new housing.

Overall, the development makes a reasonable contribution to the requirement of policy SP14 given the site constraints, the loss of unit numbers and the development costs. Some weight should be afforded to the scheme potentially delivering a level of affordable housing that exceeds the current policy requirement.

CONCLUSION

This application is recommended for approval because the development is in accord with the policies of the Bridgend Local Development Plan and will deliver affordable housing on a sustainable site. The effect of the proposal on the character and amenities of the area, specifically those enjoyed by existing residents has been carefully considered and subject

to control being imposed through the grant of planning permission, the impacts on the living conditions should not be so adverse as to warrant refusing planning permission.

In transport policy terms, the site is reasonably well-served by public transport and access to active travel is available. It is however acknowledged that trips to places of work and major retail facilities are still likely to be made by car. The layout has been amended to address previous concerns but the current arrangements both in terms of the road design and parking accord with the Council's guidelines.

Biodiversity impacts will be modest and at a local level and mitigation and enhancement works as recommended by the applicant's consultant ecologist will be secured through the consent.

The introduction of a noise sensitive land use next to an allocated and protected employment site has been carefully considered and permanent mitigation has been provided through the design and layout of the housing on the eastern boundary of the site. This should offer sufficient protection and should not prejudice the continued operation of the Coppice Alupack manufacturing unit.

Finally, the contentious issues of flooding and site drainage have been assessed by Natural Resources Wales and they are content that the development will be flood free and will not increase the risk of flooding elsewhere, critically Phase I.

The representations received have been considered however, on balance, it is not considered that they outweigh the merits of the development.

RECOMMENDATION

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

- i. Provide 6 units of affordable housing to be transferred to a Registered Social Landlord, with the type of units, location within the site and affordable tenure to be agreed by the Council
- ii. Agree and implement management plans for the future maintenance of the existing watercourse on the eastern boundary of the development site, all storage drainage systems in the private areas of the development, the noise mitigation works, the areas of open space including the Wildlife Protection Zones and all Ecological Enhancement Works. Details of the Management Plan, 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.
- iii. Enter into a Highways Agreement to secure the adoption of the proposed roads that will serve the development site.

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

1.	The development shall be carried out in accordance with the following plans: <ul style="list-style-type: none">• Site Location Plan Ref: SLP-01• Site Layout Ref: TP-02 Revision J• External Works Layout Ref: EW-01 Revision G• Engineering Layout Ref: 10290 – 100 Revision P9
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	<ul style="list-style-type: none"> • Drainage Layout Ref: 10290 – 102 Revision P2 • Access and Movement Plan Ref: AM-01 Revision D • Walk-up Flat Planning Drawings Ref: BM58-59-PL-01 Revision A • Walk-up Flat Special Planning Drawings Ref: BM58-59SP-PL-01 Revision A • Carport Planning Drawing Ref: CP-01 • Larch House Type Elevations Ref: LAR-PL-01 Revision B • Olive House Type Elevations Ref: OLV-PL-01 Revision B • House Finishes Layout Ref: HF-01 Revision D • Storey Height Plan Ref: SH-01 Revision D • Street Scenes Ref: SS-01 Revision C • Softworks Plan Ref: 1900-URB-XX-XX-DR-LA-0001-P06 • Planting Schedule Ref: 1900-URB-XX-XX-DR-LA-0003-P05 <p>Reason: For the avoidance of doubt as to the extent of the permission granted and in the interests of highway safety.</p>
2.	<p>Before any site clearance or construction works takes place on site, a detailed program for the implementation of the following ecological mitigation and enhancement works shall be submitted to and agreed in writing by the Local Planning Authority:</p> <ul style="list-style-type: none"> • Section 5 of the Preliminary Ecological Appraisal by Acer Ecology (September 2021) and with specific reference to the Retention of Broadleaved Semi-Natural Woodland and Watercourse through the establishment of Wildlife Protection Zones (WPZ). • Section 6 of the Reptile Survey by Acer Ecology (December 2021) and with specific reference to Habitat Retention and Reptile Method Statement through the establishment of Wildlife Protection Zones (WPZ) and the creation of a Hibernaculum and grassland area. • Section 6 of the Bat Survey Report and Reptile Survey by Acer Ecology – November and December 2021 with specific reference to the protection of Retained Habitats, the implementation of a sensitive lighting strategy and wildlife friendly soft landscaping and the installation of bat roosting features in the proposed houses. <p>All works shall be carried out in accordance with the recommendations in the above reports and the agreed implementation program and maintained and retained in perpetuity.</p> <p>Reason: To avoid doubt and confusion as to the nature and extent of the approved development</p>
3.	<p>No development, including site clearance, shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and agreed in writing by the Local Planning Authority. The CEMP should include:</p> <ul style="list-style-type: none"> • Construction methods including details of materials, waste, contaminated land. • General Site Management: construction/phasing programme, site clearance requirements, construction drainage, site set-up plan detailing sensitive receptors and buffers zones, relevant protection measures • Biodiversity Management: tree and hedgerow protection, invasive species management.

	<ul style="list-style-type: none"> • Soil management: topsoil strip, storage and amelioration for re-use. • Control of Nuisances: restrictions on timing/duration/frequency of works, dust control measures and control of light spill. • Resource Management: fuel and chemical storage, waste management, water consumption, energy consumption. • Traffic Management: construction vehicle routes to and from the site including temporary traffic signing including any necessary timing restrictions, the parking of vehicles of site operatives and visitors, loading and unloading of plant and materials deliveries, storage of plant and materials used in constructing the development plant on site, wheel washing facilities • Pollution Prevention: demonstrate compliance with relevant Guidelines for Pollution Prevention, incident response plan, site drainage plan. • Ecological clerk of works to ensure construction compliance with approved plans and environmental regulations. • Details of the persons/bodies responsible for activities associated with the CEMP and emergency contact details. <p>The CEMP shall be implemented as agreed during the site preparation and construction phases of the development.</p> <p>Reason: To maintain and improve the appearance of the area in the interests of visual and residential amenity and to promote nature conservation.</p>
4.	<p>Prior to the development commencing a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority. The lighting plans shall be implemented as approved.</p> <p>Reason: To maintain and improve the appearance of the area in the interests of visual amenity and to promote nature conservation.</p>
5.	<p>No development shall commence until an invasive non-native species protocol has been submitted to and approved in writing by the Local Planning Authority detailing the containment, control and removal of Japanese Knotweed and Himalayan Balsam on site. The measures shall be carried out strictly in accordance with the approved scheme and throughout the development of this site.</p> <p>Reason: To maintain and improve the appearance of the area in the interests of visual amenity and to promote nature conservation.</p>
6.	<p>Notwithstanding the submitted plans, no development shall commence until a detailed landscaping scheme has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include all areas of informal open space, retained woodland and ecological enhancement areas and shall include proposals for surface treatment, indications of all existing trees and hedgerows on land and details of any to be retained together with measures for their protection in the course of development. The agreed landscaping works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority prior to any development commencing on site and shall be maintained and retained in perpetuity.</p> <p>Reason: To maintain and improve the appearance of the area in the interests of visual amenity and to promote nature conservation.</p>

7.	<p>If within a period of up to five years from the planting of any landscaping, any tree or hedgerow planted is removed, uprooted, destroyed or dies or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place unless the Local Planning Authority gives its written consent to any variation.</p> <p>Reason: For the avoidance of doubt as to the extent of the permission granted and to maintain and improve the appearance of the area in the interests of visual amenity and to promote nature conservation.</p>
8.	<p>The noise mitigation works set in the Noise Assessment Report 3187/ENS2_Rev3 dated 8 May 2019 & Technical Note 3187/TN1_Rev3 by Hunter Acoustics dated 13 July 2022 shall be implemented as follows:</p> <ul style="list-style-type: none"> a) The layout of the development shall be as shown on plan TP-02, Rev J with Plots 13-22 being erected as a continuous block of flats with no gaps and the internal layout of the walk-up and special walk-up flats of Plots 13-26 as shown on in Figures D.2 on page 15 and D.3 on page 16 of Hunter Acoustics Technical Note 3187/TN1 Rev 3 dated 13 July 2022 so that there are no habitable rooms or windows on the critical plots backing onto the industrial site. b) The car ports shall be constructed as shown on the plan CP-01 July 22 with no gaps between the houses, the car ports or in the construction itself and with the boarding having a mass of at least 10kg/m². The roof ridge height of the car ports shall be at least 5m high as specified in Hunter Acoustics Technical Note 3187/TN1 Rev 3 dated 13 July 2022. They shall be maintained and retained in perpetuity including the acoustic grade timber cladding on the rear walls (as they form an integral part of the noise mitigation scheme). c) The roof ridge height of the entrance porches to the flats of Plots 13,16,18, 19, 22, 24 and 26 (as shown on drawing TP-02, Rev J) shall be at least 5m high and shall be constructed in accordance with the TP-02, Rev J site layout- HA scheme d) A 2.2m high barrier shall be erected along the boundary of the rear of Plots 13-22 (as shown on drawing TP-02, Rev J). The barrier shall be imperforate with no gaps, continuous and shall have a minimum mass of 10kg/m². The barrier shall be maintained in that condition and retained in perpetuity. e) All boundary treatments shall be erected as specified on drawing TP-02, Rev J f) The first-floor window to the side elevation of Plot 18 shall be a fixed pane window and shall have an alternative means of extract ventilation to the kitchen. Any extraction vent on the side elevation shall be subject to sound insulation measures to ensure that the internal noise level achieves LAeq1 hour 35dB. g) The first-floor windows to Plot 5 shall have an Rw (Weighted Sound Reduction Index) of at least 27dB and shall have trickle ventilators fitted. <p>All the above works shall be implemented prior to any of the dwellings being</p>

	<p>occupied and shall be retained and maintained as agreed in perpetuity.</p> <p>Reason: To safeguard the amenities of residents and to enable to the continued operation of the industrial premises on Isfryn Industrial Estate.</p>
9.	<p>No development shall commence until a scheme for the comprehensive and integrated drainage of the site, showing how foul drainage, roof/yard water, highway drainage and land drainage will be dealt with has been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to any building being occupied.</p> <p>Reason: To ensure effective drainage facilities are provided for the proposed development.</p>
10.	<p>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 and retained in perpetuity.</p> <p>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.</p>
11.	<p>Notwithstanding the submitted details, no development shall take place until details of the proposed floor levels of the buildings in relation to existing ground levels and the finished levels of the site have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.</p> <p>Reason: To ensure that the development relates appropriately to the topography of the site and the surrounding area.</p>
12.	<p>Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no development shall be carried out on Plots 5, 6, 7, 8 and 9 which comes within Parts 1 (Classes A, B and C) of Schedule 2 of this Order.</p> <p>Reason: To enable the Local Planning Authority to exercise future control over the scale of development as well as the installation of new windows or dormers or the extension of the property to the rear, in the interests of the residential amenities of adjacent properties and to protect the amenity space provided within the property.</p>
13	<p>Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (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 the dwellings on Plots 5, 6, 7, 8 and 9.</p> <p>Reason: To enable the Local Planning Authority to control the scale of development.</p>
14.	<p>No development shall commence on site until a scheme has been submitted to and agreed in writing showing a traffic calming feature in the vicinity of 28 Cwm Felin</p>

	<p>and Plot 1. The agreed scheme shall be implemented prior to any building on the site being brought into beneficial occupation.</p> <p>Reason: In the interests of highway safety.</p>
15.	<p>No dwelling shall be occupied until the approved parking arrangements (driveway and/or parking spaces) have been completed in permanent materials and at gradients that do not exceed 8.33% (1 in 12). All visitor parking spaces shall be completed in permanent materials and at gradients that do not exceed 8.33% before the nearest dwelling is occupied. The approved parking arrangements shall be retained for parking purposes in perpetuity.</p> <p>Reason: To ensure the provision and retention of sufficient off-street parking and to prevent loose stones, mud and gravel being spread on to the highway, in the interests of highway safety.</p>
16.	<p>No development shall commence until a scheme for the boundary treatment between the driveway for 27 Cwm Felin and Plot 1 has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be implemented as approved before the development is brought into beneficial use and retained in perpetuity.</p> <p>Reason: In the interests of highway safety.</p>
17.	<p>No development shall commence until a scheme for the boundary treatment between the driveway for 29 Cwm Felin and Plot 32 has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be implemented as approved before the development is brought into beneficial use and retained in perpetuity.</p> <p>Reason: In the interests of highway safety.</p>
18.	<p>The highway access, footways and turning facility shall be completed in permanent materials in accordance with the details prior to the development being brought into beneficial use.</p> <p>Reason: In the interests of highway safety.</p>
19.	<p>No dwelling shall be occupied until the cycle parking sheds serving the dwelling concerned have been provided in accordance with the approved layout and they shall be retained thereafter for cycle parking purposes.</p> <p>Reason: In the interests of promoting sustainable means of travel to/from the site.</p>
20.	<p>Notwithstanding the submitted plans, no development shall commence until a scheme for the provision of 1 secure cycle parking stand per flat has been submitted to and agreed in writing by the Local Planning Authority. The stands shall be installed before the occupation of any of the flats and shall be retained as such thereafter.</p> <p>Reason: In the interests of promoting sustainable means of travel to/from the site.</p>
21.	<p>No development shall commence until full details of the Residential Recycling and Waste Collection Strategy has been submitted to and agreed in writing by the Local Planning Authority. The Residential Recycling and Waste Collection Strategy shall</p>

	<p>specify how all recycling and waste should be stored and collected. Development shall be carried out in accordance with the approved strategy and the approved strategy shall be implemented in perpetuity.</p> <p>Reason: In the interests of highway safety and residential amenity.</p>
22	<p>* THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS *</p> <ul style="list-style-type: none"> a) Foul and surface water shall be drained separately. b) No surface water will be allowed to discharge to the public sewer. c) No land drainage run-off will be permitted to discharge either directly or indirectly into the public sewerage system. d) Rainwater run-off from driveways shall not discharge into the highway surface-water drainage system. Failure to ensure this may result in action being taken under Section 163 of the Highways Act 1980. e) It is a requirement under Section 153 of the Highways Act 1980 that any gates must be located and fitted so as not to open out over the highway. f) The Highway Authority will require the developer to enter into a Section 38 Road Agreement and a Section 104 Sewer Agreement including appropriate bonds to secure the implementation of the proposed highway and sewer works. g) The applicant is advised that the Highway Authority reserves the right to invoke the powers contained in Section 59 of the Highways Act 1980 and recover additional expenses incurred in maintaining certain lengths of the highway network. h) In accordance with the Bridgend County Borough Council Design Guide road gradients shall be such that the maximum gradient of 1:12 is not exceeded, a 10m near level platform shall apply at junctions and access roads shall have a minimum gradient of 1:125. i) The developer should make every effort to ensure surface water from any permanent surface drains onto adjacent porous surfaces thereby reducing the demand on the drainage system. Alternatively, the developer may wish to explore the use of permeable materials for the access and parking areas although compacted chippings would not be acceptable as they may be dragged onto the highway to the detriment of highway and pedestrian safety. As a result of the above, impermeable surfacing such as concrete or tarmac extending across the full width of the access and parking areas should not be considered as a first option. j) Details of any retaining walls within the site to be submitted to the Authority should include location, finishes, structural calculations and constructional details proving that the structures concerned have been designed and will be constructed so as to prevent subsequent structural failure and ground movement and in addition, in respect of any retaining wall or embankment supporting or having an influence on the abutting highway, the design details shall be duly certified by a professional Structural Engineer including full engineering details and structural calculations produced in accordance with the requirements of BD2/12 - Technical Approval Highway Structures as well

as qualification that the structure will achieve a 120 year life span.

- k) Commuted sums to cover the extraordinary long term maintenance costs of any highway structures will be a prerequisite of the adoption of the road works as highways maintainable at public expense.
- l) Street nameplates reflecting the official street name allocated by the Council should 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.
- m) The applicant should be advised that in addition to Planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

**JANINE NIGHTINGALE
CORPORATE DIRECTOR COMMUNITIES**

Background Papers

None

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REFERENCE: P/22/731/BCB

APPLICANT: BCBC - Communities Directorate
Civic Offices, Angel Street, Bridgend CF31 4WB

LOCATION: Pencoed Primary School, Penprysg Road, Pencoed CF35 6RH

PROPOSAL: Proposed multi-use games area (MUGA) flood lighting

RECEIVED: 27 October 2022

DESCRIPTION OF PROPOSED DEVELOPMENT

This application seeks full planning permission for the erection of flood lighting columns associated with an existing multi-use games area (MUGA) at Pencoed Primary School.

The proposal relates to the erection of 6 flood lighting columns comprising LED floodlights on 10m high metal columns. The columns will be situated on the northern side of the MUGA which is situated to the south of the school compound at Pencoed Primary School.



The proposed floodlights would allow extended use of the facility and improve general safety. The applicant has indicated that, with the addition of the floodlights, it is anticipated that during the week the MUGA could be used up to 22:00hrs. There would also be the potential for usage during weekends. It is proposed that the MUGA will be utilised between the following times:

- Weekdays 09:00-22:00
- Saturdays 09:00-19:00
- Sundays & Bank Holidays 10:00-16:00

with the floodlights to be in use following sundown in the evenings with timings to vary throughout the year.

The planning application is supported by a design statement, details of the head unit design and details of the likely levels of light spillage that would emit from such floodlights. In order to minimise the impact of the floodlights on the area of woodland to the east of the site, the floodlight column which is situated nearest to the site's eastern boundary will be fitted with visors to reduce light spill.

SITE DESCRIPTION

The application site lies within the Main Settlement of Pencoed, as defined by Policy PLA1 of the adopted Local Development Plan (2013). It comprises the site of a MUGA associated with the primary school which occupies the surrounding site.

The existing MUGA is situated in the south-eastern corner of the school compound, to the south of the main school buildings and to the east of the car park. The southern boundary of the school complex sits immediately south of the MUGA and consists of a row of trees adjacent to the railway line, beyond which a row of residential properties on Penybont Road is located. A small area of woodland sits to the south-east and east of the MUGA with further residential development beyond the school's boundaries to the north and north-east.

RELEVANT HISTORY

Application ref.	Description	Decision	Date
P/16/603/BCB	New primary school including associated demolition and site access works	Reg 4 Deemed Consent	30/09/2016
P/17/54/DOC	Discharge of conditions 11, 12, 13 and 14 of P/16/603/BCB	Pending	n/a
P/17/55/RLX	Discharge of conditions 2, 8 and 9 of P/16/603/BCB	Pending	n/a

PUBLICITY

This application has been advertised through direct neighbour notification and the consultation period expired on 21 December 2022.

CONSULTATION RESPONSES

Cllr A Williams – Providing the report from SRS comes back without any concerns, I'm content.

Shared Regulatory Services: Housing and Pollution – No objection.

Transportation Officer (Highways) – No objection subject to the inclusion of a condition.

Destination and Countryside Management (Ecology) – No objection subject to control of hours of operation during period of increased bat activity. Lights to be turned off at 9pm between May and September.

Network Rail – Network Rail has no *objection in principle to the above proposal but due to the proposal being next to Network Rail land and our infrastructure and to ensure that no part of the development adversely impacts the safety, operation and integrity of the operational railway we have included asset protection comments which the applicant is strongly recommended to action should the proposal be granted planning permission.*

REPRESENTATIONS RECEIVED

23 Cae Talcen – *Where I live, 23 Cae Talcen, we will see the floodlights from Pencoed College and the school. Is the intention to create floodlit areas both within a close proximity of a number of houses.*

Also, how can they be included when the path lights turn off at 18:30 every night to ensure no light pollution for the houses.

Next point, in Cae Talcen you get the noise from the Pencoed College and now it will include the noise from the primary school.

I'm not completely against the process but it needs an organised approach as it seem like the houses on Penybont Road (who haven't been informed) and Penprisk estate with have a double whammy of light and noise. It also does not keep in the keeping of the path lighting.

19 Penybont Road – *I object to the proposal for Pencoed proposed multi-use games area (MUGA) flood lighting due to loss of privacy, overshadowing, disturbance from noise, activities that are so close in proximity to residential housing which will be detrimental to family home life and have an impact on work related sleep patterns.*

RESPONSE TO REPRESENTATIONS RECEIVED

Shared Regulatory Services (SRS), who advise the Local Planning Authority on matters relating to Environmental Health/Public Protection, have reviewed the detailed lighting plans that have been submitted alongside the application and concluded that the proposed floodlights should not cause a statutory nuisance to nearby residential properties.

The installation of floodlights will allow for the extended use of the MUGA which may result in additional noise disturbance to neighbouring occupiers. The timings of the use of the floodlights will be controlled so as to limit the hours the MUGA can be used. The noise associated with the use of the site is unlikely to create a level of disturbance that would warrant the refusal of the application.

The proposed floodlights will not have any greater impact on the privacy of neighbouring residents. The MUGA is already in situ and in use and is a sufficient distance from the neighbouring properties to ensure that no overlooking of private property takes place through the use of the facility. The proposed floodlighting columns will be set a sufficient distance from the nearest neighbouring properties to ensure that there are no issues of overshadowing.

RELEVANT POLICIES

Local Policies

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

Policy PLA1	Settlement Hierarchy and Urban Management
Policy SP2	Design and Sustainable Place Making
Policy SP4	Conservation and Enhancement of the Natural Environment
Policy SP13	Social and Community Facilities
COM11	Provision of Outdoor Recreation Facilities
Supplementary Planning Guidance 19	Biodiversity and Development

National Policies

In the determination of a Planning application regard should also be given to the

requirements of National Planning Policy which are not duplicated in the Local Development Plan. The following Welsh Government Planning Policy is relevant to the determination of this planning application:

Future Wales – the National Plan 2040

Planning Policy Wales Edition 11

Planning Policy Wales TAN 12

Planning Policy Wales TAN 12

Planning Policy Wales TAN 16

Nature Conservation

Design

Sport, Recreation and Open Space

WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015

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

The well-being goals identified in the act are:

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

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

THE SOCIO ECONOMIC DUTY

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

APPRAISAL

In order to ensure transparency and openness in dealing with applications Council proposals are to be determined by the Development Control Committee if a material planning objection is received. This application is referred to the Committee to consider the objections raised by neighbouring properties.

An appraisal of the proposals in the context of the relevant material considerations is provided below. The main issues for consideration in the determination of this application are the visual impact of the proposal and its impact on residential amenity and ecology.

IMPACT ON VISUAL AMENITY

The acceptability of the proposed development is assessed against Policy SP2 of the Local Development Plan (2013) which stipulates “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”.

PPW11 states at paragraph 3.9 “the special characteristics of an area should be central to the design of a development. The layout, form, scale and visual appearance of a proposed development and its relationship to its surroundings are important Planning considerations”.

The proposed floodlights are to be situated in close proximity to the school building which is of a contemporary character. Whilst the Primary School is set within its own grounds, the wider area is characterised as residential with a mixture of house types including terraced, semi-detached and detached dwellings that have a mix of appearances. The school and the MUGA are set back from the public highway with views of the site limited from publicly accessible spaces.

The proposed floodlights, in isolation, are not considered to be attractive features. However, regard must be given in this case to the purpose of the development. The floodlights will benefit the school as well as the local community by enabling the existing sports facility to be utilised throughout the year.

The proposed floodlighting columns would be erected within a relatively well screened school site and situated immediately adjacent to the existing MUGA facility. Furthermore, the proposed floodlights would be set within the school grounds and would not be overly visible or dominant from the public domain, notwithstanding the height of the structures.

Overall, the development is not considered to be so visually incongruous or detrimental to the overall character and appearance of the area to warrant a refusal of the scheme in this regard. Its visual impact is considered to be acceptable on balance in line with the provisions of Policy SP2 of the LDP.

IMPACT ON NEIGHBOURING AND RESIDENTIAL AMENITY

Planning Policy Wales (Edition 11, February 2021) states at paragraph 2.7 that “placemaking in development decisions happens at all levels and involves considerations at a global scale, including climate change, down to the very local level, such as considering the amenity impact on neighbouring properties and people”.

Criterion (12) of Policy SP2 of the Local Development Plan (2013) seeks to ensure that the viability and amenity of neighbouring uses and their users/occupiers is not adversely affected by development proposals.

In terms of the impact of the scheme on the amenity of residential properties within the locality, it is acknowledged that a number of residential dwellings are situated within relatively close proximity to the application site both to the north-east and to the south of the application site.

The proposed floodlighting columns will be situated along the northern boundary of the MUGA and will face south. The columns measure 10m in height and the floodlights will be aimed down. At this height and angle, the floodlights will create a narrower floodlight beam that results in less light spill. A visor is to be included on the easternmost floodlight to limit its impact on the woodland habitat to the east of the site which will also reduce any light overspill onto the residential dwellings situated to the north and the east of this wooded area.



The floodlights will face toward the properties to the south of the application site situated on Penybont Road. A railway line with vegetation on either side separates the school compound from the rear boundaries of the houses on Penybont Road.

Guidance Note 1 for The Reduction of Obtrusive Light (Institution of Lighting Professionals) suggests that in suburban areas such as this, the maximum level of illuminance permitted to nearby dwellings/premises is 10 lux. This reduces to 2 lux post-curfew although no use of the floodlights will be permitted whatsoever past the 10pm curfew which will be conditioned. The submitted lighting plans suggest that the level of light spill at the boundary of the residential properties surrounding the site will be less than 1 lux.

Following careful consideration of the application by the Public Protection Officer, the submission of details regarding the lux levels of the proposed flood lighting and details of the proposed hours of operation, no objections to the scheme are raised with regards to light nuisance. Shared Regulatory Services are comfortable that the light power and location of the floodlights have been designed so as to ensure that they should not cause a statutory nuisance to neighbouring residents.

The installation of floodlights will allow for the extended use of the MUGA which may result in additional noise disturbance to neighbouring occupiers. The timings of the use of the floodlights will be controlled so as to limit the hours at which the MUGA can be used. The noise associated with the use of the site is unlikely to create a level of disturbance that would warrant the refusal of the application.

In addition, the floodlighting structures raise no adverse overbearing or overshadowing concerns and as such, are unlikely to harmfully impact levels of residential amenity currently enjoyed within the locality. Given this, the development is considered to be acceptable in accordance with criterion (12) of Policy SP2 and guidance contained within PPW11.

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 Local Planning Authorities 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"

An Ecological Appraisal has been submitted alongside the application which considers the impact of the development on nearby habitats. The woodland edge habitat to the east of the existing MUGA represents the area of highest ecological importance and is likely to support foraging and commuting bats. In order to mitigate for the impact of the proposal on nearby habitats and protected species, the lighting column situated to the east of the site is to be fitted with a hood/visor to minimise light spill onto the woodland habitat and reduce the risk of disturbance to bats.

At the request of the Council's Ecologist, it has also been agreed that the hours of operation for the floodlights should be limited during period of bat activity. As such, the floodlights will not be utilised after 9pm from May – September inclusive.

Subject to the inclusion of a condition relating to the above, 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.

CONCLUSION

Having regard to the above, the key considerations in the acceptability of the proposed development are the impact of the development on visual and residential amenity and ecology.

The proposal is considered to be compliant with Policies PLA1 of the Local Development Plan (2013), comprising an appropriate form of development in this location. It is deemed to be acceptable on balance in terms of its visual impact in line with the provisions of Policy SP2 of the LDP in view of the benefit that the provision of floodlights would bring to the school and the local community.

The concerns raised by neighbouring residents have been noted and taken into consideration. The Council's Public Protection advisors are satisfied that the proposed development will not cause a statutory nuisance to the amenity of neighbouring occupiers and, as such, the impact of the scheme on residential amenity is considered to be acceptable. The ecological impact of the scheme has also been considered and, subject to appropriately worded conditions, is deemed appropriate. The application is therefore considered to be acceptable and is recommended for approval.

RECOMMENDATION

(R27) That for the purposes of Regulation 3 of the Town and Country Planning Regulations 1992 the Council carry out the development subject to the following conditions:-

1. The development shall be carried out in accordance with the following approved plan/document:
 - Proposed Floodlighting System (dwg ref. E02).

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

development.

2. The floodlighting hereby permitted shall only be illuminated between the following times:
 - Weekdays 09:00-22:00
 - Saturdays 09:00-19:00
 - Sundays & Bank Holidays 10:00-16:00

Reason: In the interests of residential amenities.

3. Notwithstanding Condition 2, the floodlights as approved must not be illuminated between 21:00 and 09:00 between May 1st and September 30th (inclusive) in any year.

Reason: In the interest of protecting local biodiversity.

4. Notwithstanding Condition 1, Floodlight Column LC06 shall be fitted with visors in line with the recommendations as set out on Page 8 of the Soltys Brewster Ecological Appraisal (February 2023).

Reason: In the interest of protecting local biodiversity.

5. No source of illumination shall be directly visible from any part of an adjacent highway.

Reason: In the interests of highway safety.

**JANINE NIGHTINGALE
CORPORATE DIRECTOR COMMUNITIES**

Background Papers

None

APPEALS

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

APPEAL NO.	CAS-02289-T3Y1C3 (1973)
APPLICATION NO.	P/21/968/OUT
APPELLANT	MR PAUL EVANS
SUBJECT OF APPEAL	OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT FOR 15 DWELLINGS WITH APPROVAL FOR ACCESS: LAND ADJACENT TO TONDU ROAD, NORTH OF PASCOES AVENUE, BRIDGEND
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION LEVEL	DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposed development, by reason of its scale, siting and design, would constitute an overdevelopment of the site as it is too restricted to accommodate the number of dwellings of the scale parameters identified in the application submission consistent with generally accepted standards of space about new residential development contrary to Policy SP2 of the Bridgend Local Development Plan and advice contained within Planning Policy Wales (Edition 11, February 2021).
2. The proposed development is in a location that is not accessible by a range of different transport modes and will rely on the use of the private motor vehicle. As such it does not accord with national planning policy and advice contained within Planning Policy Wales (Edition 11, February 2021)
3. The proposed development, by reason of its location, scale, siting and design, fails to provide a satisfactory means of access to serve the traffic generated by the proposed development and will likely generate vehicular 'U' turn movements to or from the public highway, creating further traffic hazards to the detriment of highway safety along the adjoining A4063 Tondu Road contrary to the provisions of Policies SP2, SP3 and PLA5 of the Bridgend Local Development Plan and advice contained in Planning Policy Wales (Edition 11, February 2021).
4. The proposed development, by reason of the requirement to fell a number of protected trees, would adversely affect the amenity of the area and biodiversity characteristics of the site and the identified Site of Importance for Nature Conservation (SINC) known as Cefn Glass Wood (Graig-y-Casnewydd), contrary to the provisions of Policies ENV4, ENV5 and ENV6 of the Local Development Plan (2013) and guidance contained within Supplementary Planning Guidance 19 (Biodiversity and Development).

APPEAL NO.	CAS-02592-K3Y2Z3 (1985)
APPLICATION NO.	P/22/755/FUL
APPELLANT	MR N EVANS
SUBJECT OF APPEAL	ROOF TOP EXTENSION (REVISED) (RESUBMISSION OF P/22/152/FUL): 11 REST BAY CLOSE, PORTHCAWL
PROCEDURE	HOUSEHOLDER

DECISION LEVEL **DELEGATED OFFICER**

The application was refused for the following reasons:

1. The proposed roof extension, by virtue of its scale and location, represents an excessive form of development that would be detrimental to the character and appearance of the host dwellinghouse and out of keeping with the immediate area, contrary to Policy SP2 of the Local Development Plan (2013), Supplementary Planning Guidance Note 02 Householder Development and advice contained within Planning Policy Wales (Edition 11, February 2021).
2. The proposed development, by reason of its scale, orientation and design, would result in an excessive overlooking impact on the adjoining property to the north, resulting in a significant loss of residential amenity through a loss of privacy, contrary to Policy SP2 of the Local Development Plan (2013), Supplementary Planning Guidance Note 02 Householder Development and Paragraph 2.7 of Planning Policy Wales (Edition 11, February 2021).

APPEAL NO.	CAS-02312-F4Q3P4 (1975)
APPLICATION NO.	P/22/309/FUL
APPELLANT	MR & MRS JONES
SUBJECT OF APPEAL	DEMOLISH EXISTING BUNGALOW AND CONSTRUCT 10 NEW APARTMENTS WITH ASSOCIATED PARKING AND AMENITIES: 2 LOCKS COMMON ROAD, PORTHCAWL
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION LEVEL	DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposed development, by reason of its design, scale and type, represents the overdevelopment of the site and fails to provide sufficient useable and private amenity space within the site to serve the future occupiers of the two and three bed units, and therefore fails to provide an acceptable living environment for the future occupiers of the residential units, contrary to Policy SP2 of the Local Development Plan (2013) and advice contained within Supplementary Planning Guidance Note 02 Householder Development (2008) and Planning Policy Wales (Edition 11, February 2021).
2. The proposed development, by reason of its design, scale and type, represents the overdevelopment of the site and fails to provide sufficient on-site parking provision leading to indiscriminate parking close to the junction between the private road and Severn Road and the potential for vehicular and pedestrian conflicts to the detriment of highways safety within and around the site. The development is proposed to be accessed off a private road that is not constructed to adoptable standards and it is Council policy not to allow more than 5 or 6 dwellings to be accessed off an unadopted road. The scheme is therefore contrary to Policies SP2 and SP3 of the Local Development Plan (2013), SPG17 – Parking Standards and advice contained within Planning Policy Wales 11 (2021).

3. The proposed development, by reason of its design, size, scale and prominence, results in a scheme that is not in keeping with the local vernacular and the immediate context by way of oversized dormer windows and bulky flat roofed vertical features and is therefore detrimental to the visual amenities of the area and the character of the streetscene. The scheme is therefore contrary to Policy SP2 of the Local Development Plan (2013) and advice contained within Planning Policy Wales 11 (2021) and Building Better Places - The Planning System Delivering Resilient and Brighter Futures (July 2020).

4. The proposed development, by reason of its design, orientation, scale and size, fails to preserve the outlook from the habitable rooms of adjoining occupiers by way of an overbearing impact having a detrimental effect on the residential amenities currently experienced by those occupiers, contrary to Policy SP2 of the Local Development Plan and advice contained within SPG02: Householder Development (2008) and Planning Policy Wales 11 (2021).

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

APPEAL NO.	A/20/3254083 (1896)
APPLICATION NO.	P/19/580/FUL
APPELLANT	MR ROBERTS & MRS PREECE
SUBJECT OF APPEAL	TWO STATIC RESIDENTIAL GYPSY CARAVANS, TWO DAY/UTILITY ROOMS, TWO TOURING CARAVANS, IMPROVED ACCESS, INTERNAL DRIVEWAY AND PARKING AREA, FENCING, RETENTION OF HARDCORE AREA & INSTALLATION OF A SEPTIC TANK: LAND EAST OF ZOAR CHAPEL, WERN TARW ROAD, 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 DISMISSED

APPEAL NO.	C/21/3269231 (1951)
ENFORCEMENT NO.	ENF/51/19/ACK
APPELLANT	MR & MRS TOM & MONTENNA ROBERTS
SUBJECT OF APPEAL	TWO STATIC RESIDENTIAL GYPSY CARAVANS, TWO DAY/UTILITY ROOMS, TWO TOURING CARAVANS, IMPROVED ACCESS, INTERNAL DRIVEWAY AND PARKING AREA, FENCING, RETENTION OF HARDCORE AREA & INSTALLATION OF A SEPTIC TANK: LAND OPPOSITE ZOAR CHAPEL, CHAPEL ROAD (C021), RHIWCEILIOG, PENCOED

PROCEDURE HEARING

DECISION LEVEL ENFORCEMENT

DECISION THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE ALLOWED AND THE ENFORCEMENT NOTICE VARIED

A copy of the joint appeal decisions is attached as **APPENDIX A**

APPEAL NO. A/20/3265375 (1909)
APPLICATION NO. P/20/433/FUL

APPELLANT HENRY & MARGARET PRICE & HENDRY & COLLEEN PRICE

SUBJECT OF APPEAL THE CREATION OF ONE GYPSY FAMILY PITCH COMPRISING OF TWO STATIC RESIDENTIAL GYPSY CARAVANS, TWO DAY/UTILITY ROOMS, TWO TOURING CARAVANS, IMPROVED ACCESS, RETENTION OF HARDCORE AREA AND INSTALLATION OF A PACKAGE TREATMENT PLANT:
LAND AT NO. 2 GYPSY LANE STABLES, WERN TARW ROAD, 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

APPEAL NO. C/21/3269224 (1950)
ENFORCEMENT NO. ENF/114/20/ACK

APPELLANT MR & MRS HENDRY PRICE

SUBJECT OF APPEAL THE CREATION OF ONE GYPSY FAMILY PITCH COMPRISING OF TWO STATIC RESIDENTIAL GYPSY CARAVANS, TWO DAY/UTILITY ROOMS, TWO TOURING CARAVANS, IMPROVED ACCESS, RETENTION OF HARDCORE AREA AND INSTALLATION OF A PACKAGE TREATMENT PLANT:
LAND AT NO. 2 GYPSY LANE STABLES, WERN TARW ROAD, RHIWCEILIOG, PENCOED

PROCEDURE HEARING

DECISION LEVEL ENFORCEMENT

DECISION THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE ALLOWED IN THAT THE TIME FOR COMPLAINT

BE VARIED BUT THE ENFORCEMENT NOTICE BE UPHOLD IN ALL OTHER RESPECTS

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

An application for costs was refused and is attached as Appendix B (1)

APPEAL NO. CAS-02029-Z3F8M4 (1954)
APPLICATION NO. P/20/923/FUL

APPELLANT TRIPLE JERSEY LIMITED

SUBJECT OF APPEAL THE ERECTION OF A CLASS A3 RESTAURANT AND DRIVE-THRU (BURGER KING) TOGETHER WITH ASSOCIATED EXTERNAL COVERED TERRACE, SCREENED REFUSE STORE, PARKING, LANDSCAPING AND ASSOCIATED WORKS:
LAND AT WICKES CAR PARK, WATERTON, BRIDGEND

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 C**

An application for costs was allowed and is attached as APPENDIX C (1)

APPEAL NO. CAS-02528-C0V8D6 (1983)
APPLICATION NO. P/22/391/FUL

APPELLANT MR G GIRLETZ

SUBJECT OF APPEAL FRONT GARDEN DEVELOPMENT: ERECT A SUPPORTING WALL AND BOUNDARY RAILINGS; CREATE PARKING AREA; LOWER KERB TO ALLOW ACCESS FOR PARKING AREA
87 FFORDD YR EHEDYDD, NORTH CORNELLY

PROCEDURE HOUSEHOLDER APPEAL

DECISION LEVEL DELEGATED OFFICER

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

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

An application for costs was refused and is attached as APPENDIX D (1)

RECOMMENDATION

That the report of the Corporate Director Communities be noted.

**JANINE NIGHTINGALE
CORPORATE DIRECTOR COMMUNITIES**

Background Papers (see application reference number)

Appeal Decision

by Mr A Thickett BA (Hons) BTP Dip RSA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 24/03/2023

Site address: Land East of Zoar Chapel, Wern Tarw Road, Rhiwceiliog, Pencoed

Appeal A: APP/F6915/A/20/3254083

- 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 Roberts & Mrs Preece against the decision of Bridgend County Borough Council.
- The application Ref P/19/580/FUL, dated 6 August 2019, was refused by notice dated 6 April 2020.
- The development proposed is two static residential gypsy caravans, two day/utility rooms, two touring caravans, improved access, internal driveway and parking area, fencing, retention of hardcore area and installation of a septic tank.

Appeal B: APP/F6915/C/21/3269231

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991. The appeal is made by Mr Roberts & Mrs Preece against an enforcement notice issued by Bridgend County Borough Council.
- The enforcement notice, numbered ENF/51/19/ACK, was issued on 28 January 2021.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use from agricultural land to the use of the land for the siting of a motorhome for residential purposes; the creation of a new access track and hardstanding through the importation of material; the erection of site enclosures/fencing, the siting of a day room and wooden shed for purposes ancillary to the residential use.
- The requirements of the notice are:
 - i. Cease the use of the Land for the siting of a motorhome for residential purposes;
 - ii. Remove the motorhome, day room, wooden shed and site enclosures/fencing from the Land;
 - iii. Excavate all hard surfaces and hardstanding including the access track and completely remove all resultant materials from the Land.
 - iv. Re-seed the Land with grass.
- The period for compliance with the requirements is: 3 months after the Notice takes effect.

- The appeal is proceeding on the grounds set out in section 174(2)[g] of the Town and Country Planning Act 1990 as amended.
 - A Hearing was held on 14 March 2023 followed by a site visit.
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Decision

1. Appeal A is dismissed.
2. Appeal B is allowed and the Enforcement Notice varied by:
 - i. 18 months replacing 3 months after TIME FOR COMPLIANCE.
 - ii. Deleting the requirements in 5(ii) and inserting: Remove the motorhome, day room, wooden shed, site enclosures, fences, portable buildings and all other objects from the Land.
 - iii. Deleting the requirements in 5(iii) and inserting; Excavate all hard surfaces, hardstanding and materials deposited on the land including the access track and remove all resultant materials from the Land.
3. The Enforcement Notice is upheld in all other respects.

Procedural Matter

4. The area covered by the enforcement notice includes land to the east, south and west of the site subject to the planning application and appeal. The appellants do not dispute that rubble, road shavings and other material has been deposited on the land to the south of the planning application site boundary and within the land included in the Enforcement Notice since the Stop and Enforcement Notices were served. At the Hearing the appellant did not object to the variation of the Enforcement Notice to require the removal of this material.

Main Issues

5. The main issues are:
 - whether the proposal conflicts with national and local policies designed to protect the countryside and promote sustainable development,
 - the effect of the proposal on the Hendre Uchaf Site of Importance for Nature Conservation (SINC),
 - the impact of the proposed development on the character and appearance of the area,
 - the impact of the proposed development on highway safety,
 - if the planning appeal is dismissed, whether 3 months is reasonable to comply with the requirements of the enforcement notice.

Reasons

Appeal A

Countryside

6. The appeal site is in the open countryside to the north of Pencoed. Policy ENV1 of the Bridgend Local Development Plan 2006 to 2021, adopted 2011 (LDP) is permissive of the provision of gypsy and traveller accommodation in the countryside where it is demonstrated to be necessary. The policy goes on to say that where development is

acceptable in principle, it should, amongst other things, be of an appropriate scale, form and detail for its context.

7. The emerging Bridgend Local Development Plan 2018 to 2033 is currently subject to examination. Policy DNP1 carries forward Policy ENV1 with regard to the provision of gypsy and traveller accommodation in the countryside. Based on the results of a Gypsy and Traveller Accommodation Assessment (GTAA), Policy SP7 of the emerging plan makes provision for two permanent three pitch sites. I heard at the Hearing that the needs identified in the GTAA and provided for by Policy SP7 have largely been met.
8. The appellant disputes the findings of the GTAA and, as a consequence, the level of provision in the emerging LDP. However, the Council accepts and I agree that the appellants' personal circumstances are such that their need for accommodation is genuine. The Council also accepted at the Hearing that it has no sites in addition to those identified under emerging Policy SP7 and that it was not necessary for the appellants to demonstrate that there are no sites available within settlements or within the curtilage of existing development in the countryside (Policy COM6(2)).
9. Policy COM6 of the LDP relates to gypsy and traveller sites and, amongst other things, requires sites to be well related to community services and facilities (Policy COM6(3)). The site is about two miles from Pencoed and one mile from Brynna. Brynna boasts a primary school, local shop with a post office, take away and a bus stop. The nearest GP surgery is about 2.5 miles away in Llanharan and the closest comprehensive school is about 3 miles away in Pencoed.
10. Circular 5/2018, 'Planning for Gypsy, Traveller and Showpeople Sites' states that sites in the countryside can be considered if there is a lack of suitable locations within or adjacent to settlements. The Circular goes on to say that decision makers should be realistic about the availability of transport modes other than the car and avoid an over rigid application of national and local policy which seeks to reduce car borne travel. The LDP does not define 'well related.' The Circular was published after the LDP and Policy COM6 were adopted and could be argued leans towards a generous interpretation of 'well related'.
11. The Council recognises the advice in the Circular and acknowledges appeal decisions where my colleagues have applied policy in this regard flexibly but asks at what point is a site too far away from a settlement to be considered acceptable? The Circular was published and the decisions cited by my colleagues made prior to the publication of Future Wales and the latest iteration of Planning Policy Wales (PPW). National planning policy and guidance emphasise the importance of minimising the need to travel, ensuring places are accessible by active travel modes and not dependent on the car. In my view, this later national policy weighs against the advice in the Circular.
12. The lanes to Brynna and Pencoed are narrow, winding and unlit and the appellants accepted at the Hearing that they are reliant on the private car to get to shops, schools and other facilities. I acknowledge that trips may be shared and a settled base would reduce journeys between sites currently used by family members. However, the site cannot be said to be in a sustainable location and well related to community services and facilities and the proposal, therefore, conflicts with Policy COM6.
13. To conclude on this issue, the proposal complies with LDP Policy ENV1(10) in that it has been demonstrated that there is a need to provide accommodation for the appellants. Nevertheless, I do not consider the site to be well related to community services and facilities. The appellants by their own admission would be reliant on the car for journeys to shops, schools, leisure and medical facilities and the proposal conflicts with Policy COM6(3) and national policy as set out in Future Wales and PPW.

The Hendre Uchaf Site of Importance for Nature Conservation

14. The site is located within the SINC which, in this area, is characterised by marshy grassland and broad-leaved semi-natural woodland. The works carried out by the appellants has resulted in the loss of around 1,300m² of habitat. Policy ENV4 of the LDP states that developments within a SINC should be compatible with the nature conservation interest of the area. The policy resists development which would have an adverse impact on a SINC unless the benefits associated with the development outweigh any harm or harm can be mitigated or compensated. Policy 9 of Future Wales seeks to safeguard the resilience of eco systems and requires all new development to secure the maintenance and enhancement of biodiversity.
15. The appellants commissioned a Biodiversity Impact Assessment and Enhancement Strategy to support the appeal. The Strategy included measures to be taken within the appeal application site and on land in the appellant's control to the east and south to create a wildlife corridor. The report concludes that the implementation of these measures should result in biodiversity enhancement.
16. The appellants do not dispute the Council's assertion that since the report was commissioned a significant amount of material has been deposited on the land to the south of the planning appeal site, including the area proposed to become the wildlife corridor. I saw the field to the south of the planning appeal site has been almost wholly covered by hardstanding created through dumping rubble, road shavings, materials from buildings (artificial slates) and concrete railway sleepers. A small area of marshy ground, itself partly covered with dumped material, is still visible close to the southern boundary.
17. The Council was generally supportive of the package of measures and enhancements proposed by the appellants' ecologist but these recommendations were made before the area to the south of the planning appeal site was almost completely covered as described above. The damage done to the SINC, not only by covering such a large area but with materials that may well be contaminated is unknown. Consequently, it is not possible to determine whether the measures set out in the Biodiversity Impact Assessment and Enhancement Strategy are now achievable, never mind likely to be successful.
18. For the same reason, I cannot be satisfied the harm caused can be rectified by the imposition of a condition. I conclude, therefore, that the proposed development would have an adverse impact on the SINC and conflicts with LDP Policies SP2(10) and ENV4 and Policy 9 of Future Wales.

Character and appearance

19. The site lies in the open countryside, the landscape constituting of irregular shaped fields and loosely dotted by houses and farm buildings. A row of large electricity pylons march across the fields to the north of Wern Tarw Road. A short walk to the west is another unauthorised gypsy site subject to planning and enforcement appeals also before me and for which a Hearing was held on 15 March 2023 (APP/F6915/A/20/3265375 and APP/F6915/C/21/3269224).
20. The site is roughly rectangular in shape and slopes gently away southwards from Wern Tarw Road. Two pitches are proposed each with a static caravan, day room and space to park two vehicles and a touring caravan. The Council accepts the site is not visible or prominent in medium to long term views. I agree the visual impact of the proposed development would be localised. Nonetheless, the presence of the proposed caravans, buildings and domestic paraphernalia would inevitably have an adverse impact on the rural character and appearance of the area and I conclude that the proposal conflicts with

LDP Policy SP2(2 & 3) and Policy ENV1 insofar as it requires development to be of an appropriate scale, form and detail.

21. Having said this, there is an acceptance in Policy ENV1 and the Circular, that gypsy and traveller accommodation is acceptable in the countryside should a need be demonstrated which cannot be met elsewhere. It must follow, therefore, that an element of landscape change is also accepted. Looking southwards from the hillside above the appeal site, the site was largely hidden by the intervening trees and hedgerows and views influenced by the pylons, the large Rockwool factory and long distance views of Pencoed. The existing hedgerows and proposed landscaping would further help mitigate the effect of the proposed development.

Highway safety

22. Having accepted the occupiers of the proposed development would be heavily if not solely reliant on the car for trips to the shops, schools etc it is unlikely the proposed development would generate many pedestrian movements. The proposal would lead to additional car journeys and the Council is understandably concerned with the impact this would have on the safety of pedestrians using the narrow lanes in the area.

23. At the Hearing local residents referred to speeding and inconsiderate drivers but I have seen nothing by way of accident records to indicate a significant issue with regard to pedestrian safety. I visited this and the other appeal site on 4 occasions over two days. I encountered a couple of walkers on my visits and with care and consideration on both sides there were no safety issues. From what I have seen and heard; I do not consider it has been demonstrated that the proposed development would have an adverse impact on highway safety. Again, as local and national policy accepts the principle of gypsy and traveller accommodation in the countryside, it must follow that some sites will be accessed by narrow country lanes. I conclude that the proposal does not conflict with LDP Policy SP2(6).

Conclusion – Appeal A

24. I find need has been demonstrated and the proposed development would not have an adverse impact on highway safety. I do not consider the site to be in a sustainable location and find the proposed development would have a detrimental impact on the character and appearance of the area. However, no other sites within or closer to a settlement have been identified that could meet the accepted need. Further, I consider it implicit in national and local policy that if need cannot be met elsewhere, an element of landscape change in the countryside is acceptable. In this case, the impact of the proposal on the landscape would be mitigated by the existing trees and hedges and the proposed landscaping. The demonstrated need and circumstances of the appellants outweighs my findings regarding sustainability and the impact of the proposed development on the character and appearance of the area.

25. However, I do not consider the appellants' needs outweighs the significant harm to the SINC. I am not satisfied that the proposed mitigation and enhancement works to offset the loss of that part of the SINC within the site are achievable.

26. Circular 16/14, 'The Use of Planning Conditions for Development Management' advises that grant of temporary planning permission will normally only be appropriate, where a temporary development is proposed or a trial run is needed in order to assess the effect of the development on the area. I considered whether a temporary permission would allow the appellants to address and reverse the damage to the SINC but there is insufficient information before me to be confident that is possible. Further, the Circular

warns against requiring the demolition of a building that is intended to be permanent, such as, in this case, the day rooms.

27. The appeal against the Enforcement Notice is on ground g only and I acknowledge that dismissing the planning appeal will either leave the appellants homeless or condemned to return to living in intolerable conditions. I have had regard to the right for respect for private and family life set out in Article 8 of the European Convention on Human Rights (ECHR), the Public Sector Equality Duty and Article 3(1) of the United Nations Convention on the Rights of the Child (UNCRC) with regard to the best interests of the appellants' children. I am aware that the appellants' children attend local schools and acknowledge the benefits of a settled education.

28. However, these rights are qualified and interference may be justified where it is in the public interest and proportionate. Safeguarding, maintaining and enhancing our natural environment and biodiversity is one of Welsh Government's well-being objectives. I consider interference with the appellants' exercise of these rights is necessary in a democratic society in the interests of safeguarding the natural environment and the consequent long term economic well-being of the country. Further that extending the time for compliance with the Enforcement Notice to 18 months is a proportionate response with regard to the best needs of the appellants' children.

Appeal B

29. The appeal against the enforcement notice is on ground g only, that being the time given for compliance is too short. One of the effects of the enforcement notice would be to render the appellants homeless or at best separated and facing intolerable living conditions on authorised sites. I agree with the appellant that 3 months is not adequate to find a suitable alternative site. At the Hearing the Council agreed to accept 9 months. I do not make light of the likely damage to the SINC but am also mindful of my duty under Article 3(1) of the UNCRC. Balancing the needs of the appellants and their children against the damage to the SINC, I consider 18 months to be reasonable and amend the notice accordingly.

30. I see no reason the appellants need wait 18 months to remove the material dumped in the field to the south of the planning appeal site and address the damage to the SINC. The Enforcement Notice requires the land to be re seeded with grass. Whether this is the most appropriate treatment for the SINC was not discussed at the Hearing and the appellant is encouraged to discuss the most appropriate seed mix with the Council to encourage habitat recovery.

Conclusion

31. For the reasons given above and having regard to all matters raised, I conclude Appeal A should be dismissed. Appeal B is allowed and the Enforcement Notice varied as set out in paragraph 2 above.

32. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives.

A Thickett

Inspector



Appeal Decision

by Mr A Thickett BA (Hons) BTP Dip RSA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 24/03/2023

Site address: Land at No. 2 Gypsy Lane Stables, Wern Tarw Road, Rhiwceiolog, Pencoed

Appeal A: APP/F6915/A/20/3265375

- 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 Henry Price against the decision of Bridgend County Borough Council.
- The application Ref P/20/433/FUL, dated 17 June 2020, was refused by notice dated 11 November 2020.
- The development proposed is the creation of one gypsy family pitch comprising of two static residential gypsy caravans, two day/utility rooms, two touring caravans, improved access, retention of hardcore area and installation of a package treatment plant.

Appeal B: APP/F6915/C/21/3269224

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991. The appeal is made by Henry Price against an enforcement notice issued by Bridgend County Borough Council.
- The enforcement notice, numbered ENF/114/20/ACK, was issued on 28 January 2021.
- The breach of planning control as alleged in the notice is without planning permission a material change of use from agricultural land to the use of the land for the siting of a touring caravan and motorhome for residential purposes; the creation of a new access track and hardstanding through the importation of material; the construction of a day/utility/toilet block for purposes ancillary to the residential use, the construction of a stable block and the siting of a steel storage container.
- The requirements of the notice are:
 - i. Cease the use of the Land for the siting of a touring caravan and motorhome for residential purposes.
 - ii. Remove motorhome, touring caravans, steel storage container and all associated paraphernalia from the Land.
 - iii. Demolish the day/utility/toilet block and stable block (iv) Excavate all hard surfaces and hardstanding including the access track.
 - iv. Completely remove all resultant materials from the requirements of (iii) and (iv) from the Land
 - v. Re-seed the Land with grass

- The period for compliance with the requirements is 3 months after the notice takes effect.
 - The appeal is proceeding under section 174(2)[g] of the Town and Country Planning Act 1990 as amended.
 - A Hearing was held on 15 March 2023 followed by a site visit.
-

Decision

1. Appeal A is allowed and planning permission granted subject to the conditions set out in the schedule at the end of this decision.
2. Appeal B is allowed and the Enforcement Notice varied by:
 - i. 6 months replacing 3 months after TIME FOR COMPLIANCE.
3. The Enforcement Notice is upheld in all other respects.

Procedural Matter

4. The appellant questions whether the Enforcement Notice should have included the words 'operational development' as well as 'material change of use'. The Council does not consider this to be necessary. I agree, the wording of the allegation is such that it cannot be construed not to include the building works including the creation of the hardstanding and access.

Application for costs

5. An application for costs has been made by Henry Price against Bridgend County Borough Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues are:
 - whether the proposal conflicts with national and local policies designed to protect the countryside and promote sustainable development,
 - the impact of the proposed development on the character and appearance of the area,
 - the impact of the proposed development on highway safety,
 - whether the site has a potable water supply,
 - if the planning appeal is dismissed, whether 3 months is reasonable to comply with the requirements of the enforcement notice.

Reasons

Appeal A

7. The appeal site is in the open countryside to the north of Pencoed. Policy ENV1 of the Bridgend Local Development Plan 2006 to 2021, adopted 2011 (LDP) is permissive of the provision of gypsy and traveller accommodation in the countryside where it is demonstrated to be necessary. The policy goes on to say that where development is acceptable in principle, it should, amongst other things, be of an appropriate scale, form and detail for its context.
8. The emerging Bridgend Local Development Plan 2018 to 2033 is currently subject to examination. Policy DNP1 carries forward Policy ENV1 with regard to the provision of gypsy and traveller accommodation in the countryside. Based on the results of a Gypsy

and Traveller Accommodation Assessment (GTAA), Policy SP7 of the emerging plan makes provision for two permanent three pitch sites. I heard at the Hearing that the needs identified in the GTAA and provided for by Policy SP7 have largely been met.

9. However, the Council accepts and I agree that the appellant's personal circumstances are such that the need for accommodation is genuine. The Council also accepted at the Hearing that it has no sites in addition to those identified under Policy SP7 and that it was not necessary for the appellant to demonstrate that there are no sites available within settlements or within the curtilage of existing development in the countryside (Policy COM6(2)).
10. Policy COM6 of the LDP relates to gypsy and traveller sites and, amongst other things, requires sites to be well related to community services and facilities. The site is about two miles from Pencoed and one mile from Brynna. Brynna boasts a primary school, local shop with a post office, take away and a bus stop. The nearest GP surgery is about 2.5 miles away in Llanharan and the closest comprehensive school is about 3 miles away in Pencoed.
11. Circular 5/2018, 'Planning for Gypsy, Traveller and Showpeople Sites' states that sites in the countryside can be considered if there is a lack of suitable locations within or adjacent to settlements. The Circular goes on to say that decision makers should be realistic about the availability of transport modes other than the car and avoid an over rigid application of national and local policy which seeks to reduce car borne travel. The LDP does not define 'well related.' The Circular was published after the LDP and Policy COM6 were adopted and could be argued leans towards a generous interpretation of 'well related'.
12. The Council recognises the advice in the Circular and acknowledges appeal decisions where my colleagues have applied policy in this regard flexibly but asks at what point is a site too far away from a settlement to be considered acceptable? The Circular was published and my colleague's decisions made prior to the adoption of Future Wales and the latest iteration of Planning Policy Wales (PPW). Both emphasise the importance of minimising the need to travel, ensuring places are accessible by active travel modes and not dependent on the car. In my view, this later national policy weighs against the advice in the Circular.
13. The lanes to Brynna and Pencoed are narrow, winding and unlit and the appellant accepted at the Hearing that he is reliant on the private car to get to shops and other facilities. The site cannot be said to be in a sustainable location and well related to community services and facilities and the proposal, therefore, conflicts with Policy COM6.
14. To conclude on this issue, the proposal complies with LDP Policy ENV1(10) in that it has been demonstrated that there is a need to provide accommodation for the appellant and his family. Nevertheless, I do not consider the site to be well related to community services and facilities. The appellant by his own admission would be reliant on the car for journeys to shops, leisure and medical facilities and the proposal conflicts with Policy COM6(3) and national policy as set out in Future Wales and PPW.

Character and appearance

15. The site lies in the open countryside and within the Mynydd y Gaer Special Landscape Area, the primary characteristics of which are the undulating ridgeline landform running east to west and the attractive upland landscape associated with Mynydd y Gaer. The ridgeline and common are above the site to the north. The landscape around the site constitutes irregular shaped fields, loosely dotted by houses and farm buildings. A row of large electricity pylons march across the site. A short walk to the east is another

unauthorised gypsy site subject to planning and enforcement appeals also before me and for which a Hearing was held on 14 March 2023 (APP/F6915/A/20/3254083 and APP/F6915/C/21/3269231). The countryside around the site is not untouched but it has a pleasing rustic and rural character.

16. The land to the north of Wern Tawr Road rises and the proposed caravans (two static and two tourers) day rooms and 6 parking spaces would be on a plateau dug into the hillside. I heard from a local resident that the access to the proposed pitches from Wern Tawr Road used to be an old road and the site used as a quarry. This would explain the steep sides ringing the plateau and possibly the remains of a building the appellant claims to have discovered.
17. The proposed development would nestle into the hillside and be viewed against this backdrop. Looking southwards from the hillside above the appeal site, I could not see the area proposed for the pitches due to topography and the intervening mature trees and hedgerows. Any views from fields and houses on the hillside would be influenced by the pylons, the large Rockwool factory and long distance views of Pencoed.
18. The site is prominent viewed from Wern Tarw Road. I appreciate what I saw on site is not what is proposed. However, it illustrates the harm that would be caused through the introduction of the proposed development and associated domestic paraphernalia into this attractive rural area. In particular, the touring caravan on the site, with its typical light, shiny metal finish looks out of place in this rural area. I conclude that it conflicts with LDP Policies SP2 (2 & 3), ENV3 and ENV1 insofar it requires development to be of an appropriate scale, form and detail for its context.
19. However, there is an acceptance in Policy ENV1 and the Circular, that gypsy and traveller accommodation is acceptable in the countryside should a need be demonstrated which cannot be met elsewhere. It must follow, therefore, that an element of landscape change is also accepted. The existing hedgerows and proposed landscaping would help screen the proposed development. The touring caravans would be partly hidden behind the statics and day rooms. The static caravans could be clad or finished in recessive colours and the day rooms clad in timber. All this would help mitigate the impact of the proposed development.

Highway safety

20. The appellants stated at the Hearing that they attend the chapel which is about 200m to the west of the site. Other than walking to the chapel for services, having accepted the occupiers of the proposed development would be heavily if not solely reliant on the car, it is unlikely the proposed development would generate many pedestrian movements. The proposal would lead to additional car journeys and the Council is understandably concerned with the impact this would have on the safety of pedestrians using the narrow lanes in the area.
21. At the Hearing local residents referred to speeding and inconsiderate drivers but I have seen nothing by way of accident records to indicate a significant issue with regard to pedestrian safety. I visited this and the other appeal site on 4 occasions over two days. I encountered a couple of walkers on my visits and with care and consideration on both sides there were no safety issues. From what I have seen and heard; I do not consider it has been demonstrated that the proposed development would have an adverse impact on highway safety. Again, from the acceptance in local and national policy that gypsy and traveller accommodation may be acceptable in the countryside, it must follow that some sites will be accessed by narrow country lanes. I conclude that the proposal does not conflict with LDP Policy SP2(6).

Water supply

22. The appellant's water supply comes from bowsers imported on to the site. The documentation supporting the appeal application includes a reference to discussions with National Resources Wales regarding a borehole but no further information to show that it would be possible to supply the occupants of the site with potable water. Policy COM6 is in line with PPW with regard to showing that the necessary infrastructure, including a water supply of a suitable quality can be provided.
23. Further information submitted at appeal demonstrates that a supply of potable water is achievable. This will be secured by condition and I conclude that, in this respect, the proposed development complies with Policy COM6(4).

Conclusion – Appeal A

24. I find need has been demonstrated and the proposed development would not have an adverse impact on highway safety. I do not consider the site to be in a sustainable location and find the proposed development would have a detrimental impact on the character and appearance of the area. However, no other sites within or closer to a settlement have been identified that could meet the accepted need. Further, I consider it implicit in national and local policy that if need cannot be met elsewhere, an element of landscape change in the countryside is acceptable. In this case, the impact of the proposal on the landscape would be mitigated by the existing trees and hedges and the proposed landscaping. In my view, the demonstrated need and circumstances of the appellants outweighs my findings regarding sustainability and the impact of the proposed development on the character and appearance of the area.

Conditions

25. I have considered the conditions suggested by the Council in light of the advice in Circular 16/14/. Other than the areas of hardstanding, the development that has taken place on site is not as shown on the submitted plans. The Enforcement Notice is upheld in all respects bar the time for compliance and the development currently on site is unauthorised. On the basis the development subject to the appeal application is materially different to that subject to the Enforcement Notice, I have imposed the standard time limit condition.
26. The submitted details for external lighting include two types, a bollard and a bulkhead type but the site plan only shows the positions of the bollards. Lighting impacts on landscape and ecological interests and I will impose a condition requiring approval of details. The wording of the recommendations for biodiversity enhancements in the appellant's ecological report do not meet the test of precision and I will impose a condition requiring the submission and approval of details.
27. Surface water drainage requires separate approval and a condition in this regard is unnecessary. Given that the Council would be responsible for implementing a scheme providing warning signs within the highway, it would not be reasonable or appropriate to hold the appellant responsible for the works to be done in a specified time period.
28. Imposing a condition requiring approval of the external finish to the static caravans and day/utility rooms was not discussed at the Hearing. I consider such a condition to be necessary to help mitigate the impact of the proposed development on the character and appearance of the area. Conditions requiring approval of materials are standard and should not come as a surprise to the appellant.

Appeal B

29. The appeal against the enforcement notice is on ground g only, that being the time given for compliance is too short. Given the planning appeal is allowed, the main reason for seeking a longer period, that being to find alternative accommodation, does not apply.

30. However, it is likely to take longer than 3 months to complete the permitted works, particularly as some of the conditions require the submission and approval of details. I shall, therefore, extend the time for compliance to 6 months.

Conclusion

31. For the reasons given above and having regard to all matters raised, I conclude that the appeals should be allowed.

32. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives.

A Thickett

Inspector

Schedule

APP/F6915/A/20/3265375

The appeal is allowed and planning permission granted for the creation of one gypsy family pitch comprising of two static residential gypsy caravans, two day/utility rooms, two touring caravans, improved access, retention of hardcore area and installation of a package treatment plant at Land at No. 2 Gypsy Lane Stables, Wern Tarw Road, Rhiwceiolog, Pencoed, in accordance with the terms of the application, Ref P/20/433/FUL dated 17 June 2020, subject to the following conditions:

1. The development shall begin no later than five years from the date of this decision.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following plans: Drawing 01b - Expanded Location Plan, Drawing 02b – Location and Block Plan, Drawing 03a – Topographical Survey Plan, Drawing 04a – Overall Site Plan, Drawing 05b – Proposed Site Layout Plan, Drawing 06b– Floor Plan and Elevations of Proposed Utility / Day Room,

Reason: To ensure the development is carried out in accordance with the approved plans.

3. The occupation of the site shall only be by Gypsies and Travellers as defined by Welsh Government Circular 0005/2018.

Reason: The residential use of the site in this rural location would not be permitted unless occupied by a Gypsy or Traveller, in accordance with LDP Policy ENV1.

4. No more than four vehicles shall be kept on the land for use by the occupiers of the caravans hereby permitted and none of those vehicles should exceed 3.5 tonnes in weight.

Reason: To safeguard the character and appearance of the area and living conditions of nearby residents in accordance with LDP Policy SP2.

5. No commercial activities shall take place on the land including the storage of commercial plant, machinery, or vehicles.

Reason: To safeguard the character and appearance of the area and living conditions of nearby residents in accordance with LDP Policy SP2.

6. No more than four caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the caravans Sites Act 1968, comprising of two static caravan and two touring caravan shall be stationed on the site at any time.

Reason: To safeguard the character and appearance of the area in accordance with LDP Policy SP2.

7. The development hereby permitted shall not be occupied until details of external lighting have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the area and ecology in accordance with LDP Policy SP2.

8. The development hereby permitted shall not be occupied until a scheme for biodiversity enhancement has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To safeguard and enhance biodiversity in accordance with LDP Policy SP2.

9. The development hereby permitted shall not be occupied until a landscaping scheme including details of trees and hedgerows to be retained and their protection through the course of the development, has been submitted to and approved in writing by the local planning authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the development hereby permitted and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To safeguard the character and appearance of the area and ecology in accordance with LDP Policy SP2.

10. The development hereby permitted shall not be occupied until details of the external surfaces of the static caravans and day/utility rooms has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the area and ecology in accordance with LDP Policy SP2.

11. The development hereby permitted shall not be occupied until a scheme for foul drainage has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: to ensure drainage facilities are provided for the proposed development in accordance with LDP Policy SP2.

12. The development hereby permitted shall not be occupied until a scheme for the provision of traffic signs warning of the presence of pedestrians along Wern Tarw Road has been submitted to and agreed in writing by the local planning authority.

Reason: In the interests of highway safety in accordance with LDP Policy SP2.

13. The development hereby permitted shall not be occupied until visibility splays of 2.4 by 25m have been provided to the east and west of the access to Wern Tarw Road. No structure over 0.9m shall be placed within the visibility splays nor shall any planting be allowed to grow above 0.9m within the visibility splays.

Reason: In the interests of highway safety in accordance with LDP Policy SP2.

14. The development hereby permitted shall not be occupied until a water supply of a suitable volume and quality to serve the development hereby permitted has been provided in accordance with details to be submitted to and agreed in writing by the local planning authority.

Reason: In the interests of public health and in order to ensure that an adequate private water supply is provided in accordance with LDP Policy COM6.



Costs Decision

by Mr A Thickett BA (Hons) BTP Dip RSA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 24/03/2023

Costs application in relation to Appeal Ref: APP/F6915/A/20/3265375

Site address: Land at No. 2 Gypsy Lane Stables, Wern Tarw Road, Rhiwceiolog, Pencoed

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
 - The application is made by Henry Price for a partial award of costs against Bridgend County Borough Council.
 - The hearing, which was held on 15 March 2023, was in connection with an appeal against the refusal of planning permission for the creation of one gypsy family pitch comprising of two static residential gypsy caravans, two day/utility rooms, two touring caravans, improved access, retention of hardcore area and installation of a package treatment plant.
-

Decision

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

Procedural matter

2. The costs application and rebuttals were made in writing and expanded upon at the hearing.

Reasons

3. The Section 12 Annex 'Award of Costs' of the Development Management Manual ('the Annex') advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. The application was refused for 4 reasons. This application is limited to the 4th reason which alleges insufficient information had been provided regarding the provision of a water supply to the proposed development. Planning Policy Wales advises that the adequacy of water supply should be considered when proposing development, both as a water service and because of the consequential environmental and amenity impacts associated with a lack of capacity (paragraph 6.6.9). One of the criteria of LDP Policy COM 6 requires a proposed gypsy site to be served by utilities, this would include a water supply.
5. The Planning Statement supporting the appeal application states that the appellant had been in discussion with NRW with regard to a license to extract water from a bore hole in the northern part of the site but went no further than that. In light of the oral submissions

at the Hearing, I am content water supply is matter that can be left to condition. The Council did not have this information at application stage and, given officers had determined to recommend refusal on other grounds, it was reasonable of them to decide not to put the appellant to the trouble and expense of providing further information.

6. The provision of an adequate water supply is a material planning consideration and the appellant would have needed to provide details in this regard at the planning application stage had the application not been refused on other grounds. I do not consider the Council has acted unreasonably nor that the appellant has been put to unnecessary expense.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Annex, has not been demonstrated. The application for an award of costs is refused.

A Thickett

Inspector



Appeal Decision

By Mr A Thickett BA (Hons) BTP Dip RSA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 11.04.2023

Appeal reference: CAS-02029-Z3F8M4

Site address: Land at Wickes Car Park, Waterton, Bridgend, CF31 3XX

- 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 Triple Jersey Limited against the decision of Bridgend County Borough Council.
 - The application Ref P/20/923/FUL, dated 9 November 2020, was refused by notice dated 22 December 2021.
 - The development proposed is the erection of a Class A3 restaurant and drive-thru (Burger King) together with associated external covered terrace, screened refuse store, parking, landscaping and associated works.
 - A Hearing was held on 7 March 2023 followed by a site visit on 15 March 2023.
-

Decision

1. The appeal is allowed and planning permission granted subject to the conditions set out in the schedule to this decision.

Procedural Matters

2. At the Hearing the Council was given leave to correct its rebuttal against the application for costs made by the appellant to address the appeal being made against the refusal of planning permission rather than non-determination. The Council's amended rebuttal went beyond correcting the error and contained evidence to support its case regarding the capacity of the local highway network.
3. As the evidence is material to the determination of the appeal, I accepted it and the appellant given time to respond. The application for costs is the subject of a separate decision.

Main Issue

4. Although the main area of dispute in this appeal is the impact of the proposed development on highway safety, to conclude on this matter it is necessary to consider sustainability, pedestrian safety, parking and highway capacity.

Reasons

Sustainability and pedestrian safety

5. The appeal site lies at the western end of a large car park serving a DIY store (Wickes). The proposed restaurant and drive through would take up some of the car park and share the access to the DIY store. Access to the store and other uses including a car wash, fast food restaurant and car sales is via a roundabout to the A48 (the Picton Court roundabout).
6. The site is located within Bridgend Retail Park, which under Policy REG10(1) of the Bridgend Local Development Plan 2006 - 2021, adopted 2013 (LDP), is allocated as an existing retail development outside the identified retail and commercial centres. The reasoned justification to the policy states that the retail parks identified under Policy REG10 are well integrated into the urban fabric of the County Borough and are well-served by public transport and accessible by means other than a car. This statement is repeated in the justification to a similar policy in the emerging LDP.
7. The Council acknowledged this at the Hearing and accept that, in the main, the retail park is accessible by public transport, cyclists and on foot. However, the Council consider the A48 to be such a barrier to cyclists and pedestrians that the only safe way to get to the stores and outlets on the southern side of the road is by car. I heard that in designing a new active travel route along the northern side of the A48, the Council had not considered the north/south pedestrian crossing of the eastern arm of the Picton Court roundabout due to an assumed low level of use.
8. The Council produced no evidence to support this assertion. The appellant produced a Strava heat map of pedestrian use along the A48 which showed footfall on its southern side. The appellant also submitted a survey of pedestrians crossing the Picton Court roundabout. This showed around 515 people crossing on a weekday and 312 crossing on a Saturday. Further, at the Hearing the owner of an existing catering van on the Wickes car park reported that shoppers regularly parked at Wickes and walked to the Home & Bargains store on the northern side of the A48. She attended the Hearing from the car park and reported that in one 20 minute period on the morning of the Hearing she witnessed 7 people cross the A48.
9. At the time of my visit, the footway on the northern side of the A48 was being improved and was closed. Pedestrians were directed to use the footpath on the southern side by crossing the A48 at the Picton Court roundabout. Whilst this may have been on the basis of 'needs must,' if crossing the A48 here is as dangerous as the Council suggests, why were people being directed to do just that?
10. The evidence before me shows that pedestrians do cross the A48 at the Picton Court roundabout. Accident data from 2017 to 2021 (inclusive) shows 3 incidents, all on the northern arm of the Picton Court roundabout. None of the accidents resulted in a fatality and whilst all accidents are significant to those involved, the volume of traffic through this junction is such that 3 incidents over a 5 year period does not indicate that the geometry of the roads and roundabout is inherently unsafe. I visited the site in the morning peak, around 09.00. I was able to cross all arms of the Picton Court roundabout safely. Traffic was busy but opportunities to cross safely did not take long to present themselves.
11. In support of the proposal the applicant submitted an assessment using the Pedestrian Environment Review System (PERS). The analysis showed the infrastructure for pedestrian crossings at the Picton Court roundabout to be an acceptable standard for all but the southern arm which the appellant has agreed to improve. Whilst refusing to accept the findings of the PERS review, arguing it was designed for London, the Council

conceded at the Hearing that PERS is more comprehensive than the equivalent Welsh Government guidance. Following Welsh Government guidance may have resulted in different answers but given PERS is agreed to be a more comprehensive assessment, I see no reason to doubt its conclusions.

12. I do not doubt that, as reported by the local Member at the Hearing, people don't always cross the A48 when and where it is safe to do so. However, I consider that it has been shown, and my experience confirms, that pedestrians can cross the A48 safely. The Council's claim that the proposed development would not be sustainable due to its location south of the A48 is not borne out and I find, in line with the adopted and emerging LDPs, that the proposed development would be accessible by means other than the private car.

Parking

13. The submitted layout shows 15 car parking spaces, a space for a delivery vehicle and cycle parking. The Council's parking standards require 17 spaces to serve the proposed development, falling to 15 if the site is deemed to be in a sustainable location. It was agreed at the Hearing that if I concluded that the site is in a sustainable location, which I have, it followed that 15 spaces would be acceptable. The appellant announced at the Hearing that the car park would be shared with Wickes and the existing gates would not be locked when Wickes closed. In addition to effectively removing parking as an issue in this appeal, this also provided the Council with comfort regarding concerns over the internal layout of the parking and drive through. Having said this, the appellant submits evidence including swept paths, which demonstrates that drivers should be able to negotiate the parking and drive through effectively.
14. The local Member at the Hearing was understandably concerned regarding the potential for anti-social behaviour should Wickes' car park be open when the store is closed, having experienced such behaviour on another large car park elsewhere. Given that I find 15 spaces to be adequate, there is no need to impose a condition requiring Wickes' car park to be open and available for users of the proposed development.
15. I heard that, due to storage of materials in the yard, articulated lorries delivering to Wickes are unable to turn around in the yard and so reverse down the service road, sometimes blocking the entrance to the car park. The service road is a private road and whilst HGVs manoeuvring and waiting on it is likely to prove frustrating to people trying to get to Wickes or the proposed development, I have seen nothing to suggest this would endanger users of the public highway.

Capacity

16. The appellant carried out traffic surveys and submitted an assessment relating to the capacity of the local highway network including the Picton Court and Waterton roundabouts. An updated assessment was produced to support the appeal. In brief, the conclusion of these assessments is that the proposed development would have an indiscernible impact on the capacity of the Picton Court and Waterton roundabouts.
17. Other than the late submission regarding the Waterton roundabout, the Highway Authority produced no empirical evidence regarding capacity. Its position before and during the Hearing was the appellant had submitted insufficient evidence to assess the impact of the proposed development. The appellant responded to all the matters raised by the Highway Authority prior to the determination of the application, providing further information and/or answers.
18. The Council, under the guise of an amended costs rebuttal and after the Hearing closed, submitted new information regarding the capacity of the Waterton roundabout (the

'Brocastle assessment') and the Strategic Transport Assessment produced to support the emerging LDP. The Council commissioned a review of the Brocastle assessment in 2017. I acknowledge that review raised concerns regarding capacity at the Waterton roundabout but the appellant has produced later studies which conclude there would be no discernible impact with regard to capacity. I note the appellants contention that the methodology used to produce the STA was flawed but it seems to me the site specific assessments carried out to support the appeal application are to be favoured over a district wide STA.

19. At the Hearing the Highway Authority maintained its position regarding the veracity of the appellant's evidence but the appellant's methodology and assessments are in line with standard industry practice. I am satisfied the appellant's assessments are robust and I have neither seen nor heard anything to persuade me that the information sought by the Highway Authority would lead to materially different conclusions.

Other Matters

20. I note the representations made in support of the owner of the catering trailer which operates from the car park. However, the impact of the proposed development on this business is not a material consideration.

Conditions

21. I have considered the conditions suggested by the Council in light of the advice in Circular 16/14. The layout of the proposed development cannot accommodate widening the footway on the western and southern boundaries. This requirement would conflict with the Circular which warns that conditions which would prevent the implementation of the development permitted should not be imposed. Given the location of the site on the A48, I see no need to require a delivery management plan. Nor am I persuaded one is needed to address potential for conflict with deliveries to Wickes. Surface water drainage is subject to a separate consenting procedure and I have neither seen nor heard anything to suggest foul drainage cannot be left to Building Regulations.

Conclusion

22. I find that the proposed development would not have an adverse impact on highway safety and complies with Policy SP2 of the LDP. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed.

23. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objectives.

A Thickett

Inspector

SCHEDULE

CAS-02029-Z3F8M4

The appeal is allowed and planning permission granted for the erection of a Class A3 restaurant and drive-thru (Burger King) together with associated external covered terrace, screened refuse store, parking, landscaping and associated works at land at Wickes Car Park, Waterton, Bridgend, CF31 3XX, in accordance with the terms of the application, Ref P/20/923/FUL, dated 9 November 2020, subject to the conditions set out in the schedule to this decision.

1. The development shall begin no later than five years from the date of this decision.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following plans: P00 Location Plan-A; P02 Proposed Site Plan-C; P03 Proposed Ground Floor Plan-B; P04 Proposed First Floor Plan-B; P05 Proposed Roof Plan-A; P08 Boundary Treatment Ext Furniture; P06 Proposed Elevations 1 of 2-D; P07 Proposed Elevations 2 of 2 Section-C; Bridgend Drainage Strategy plan Ref.1298/11 Rev 1.

Reason: To ensure the development is carried out in accordance with the approved plans submitted with the application.

3. Notwithstanding the details shown on Proposed Site Plan-C, the development hereby permitted shall not be brought into use until two cycle parking stands capable of accommodating two bicycles each have been provided in accordance with details submitted to and approved in writing by the local planning authority. The approved cycle stands shall be retained for their designated use for as long as the development hereby permitted remains in existence.

Reason: To promote active travel and to comply with LDP Policy SP2.

4. The development hereby permitted shall not be brought into use until the parking and internal roads shown on Proposed Site Plan-C have been completed in permanent materials with the individual spaces clearly demarcated in permanent materials. The parking spaces shall be retained for their designated use for as long as the development hereby permitted remains in existence.

Reason: In the interests of highway safety and to comply with LDP Policy SP2.

5. Notwithstanding the details shown on Proposed Site Plan-C, the pedestrian access shown to the A48 shall not be constructed.

Reason: In the interests of highway safety and to comply with LDP Policy SP2.

6. The development hereby permitted shall not be brought into use until a pedestrian access at the south western corner of the site has been provided in accordance with details submitted to and approved in writing by the local planning authority. The pedestrian access shall be retained for its designated use for as long as the development hereby permitted remains in existence.

Reason: To promote active travel and to comply with LDP Policy SP2.

7. The development hereby permitted shall not be brought into use until a wall, fence or other boundary treatment designed to deter pedestrian access into the site along the northern and western boundaries has been provided in accordance with details submitted

to and approved in writing by the local planning authority. The approved boundary treatment shall be retained for its designated use for as long as the development hereby permitted remains in existence.

Reason: In the interests of highway safety and to comply with LDP Policy SP2.

8. The visibility splays shown on Figure 2-2 of the Calibro 'Fast Food Drive Thru, Park Plaza Bridgend' Transport Statement dated 4 November 2020, shall be provided before the development hereby permitted is brought into use. Nothing exceeding 0.9m in height above adjacent carriageway level shall be placed or allowed to grow above 0.9m within the required vision splay areas at any time.

Reason: In the interests of highway safety and to comply with LDP Policy SP2.

9. The development hereby permitted shall not be brought into use until a priority crossing across the southern access road to the roundabout serving the site has been provided in accordance with details submitted to and approved in writing by the local planning authority. The approved crossing shall be retained for its designated use for as long as the development hereby permitted remains in existence.

Reason: In the interests of highway safety, to promote active travel and to comply with LDP Policy SP2.

10. The development hereby permitted shall not be brought into use until all external lighting has been fitted in accordance with details submitted to and approved in writing by the local planning authority. The approved lighting shall be operated in accordance with the approved details for as long as the development hereby permitted remains in existence.

Reason: In the interests of highway safety and to comply with LDP Policy SP2.

11. No work above ground floor slab level shall take place until details 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 safeguard the character and appearance of the area in accordance with Policy SP2 of the LDP.

12. No work above ground floor slab level shall take place until a scheme of landscaping and biodiversity enhancement has been submitted to and agreed in writing by the local planning authority. The landscaping shall include, proposals for surface treatment, indications of all existing trees and hedgerows on land, and details of any to be retained, together with measures for their protection in the course of development. The approved landscaping and biodiversity enhancement works shall be carried out prior to the development hereby permitted being brought into use or in accordance with a timetable agreed in writing by the local planning authority prior to the development hereby permitted being brought into use. Should any plants die, become diseased or damaged within 5 years of the implementation of the approved landscaping scheme they will be replaced by plants of similar size and species unless otherwise agreed in writing by the local planning authority.

Reason To safeguard the character and appearance of the area and enhance biodiversity in accordance with Policy SP2 of the LDP and Policy 9 of Future Wales.

13. The premises shall be used for a Class A3 restaurant with hot food takeaway with 'drive thru' facility only and for no other purpose within the Town and Country Planning (Use

Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order.

Reason: To safeguard the vitality and viability of town and district centres in accordance with LDP Policy SP1.

14. Should the noise levels from the installed plant or any replacement plant be higher than the noise levels specified in Table 5 of the noise assessment undertaken by Inacoustic entitled 'Wickes DIY Store, Waterton, Bridgend-Noise Assessment of Proposed Drive-Thru Restaurant' dated 11th February 2021, project number 21-045, an updated noise assessment shall be provided to demonstrate compliance with condition 15.

Reason: To safeguard the living conditions of nearby residents in accordance with LDP Policy SP2.

15. The rating level of the combined noise from all plant (including the application of any tonal penalty) at the premises when assessed in accordance with BS4142 in free field conditions at any noise sensitive premises, shall not exceed the noise rating levels shown in table 1 below:

Time	Noise rating level
Day (07.00 – 23.00)	40 dB LAeq, 1 hour
Night (23.00 – 07.00)	30 dB LAeq, 15 minutes

Where the noise levels in the table are exceeded, a scheme of mitigation measures shall be submitted to and agreed with the local planning authority within 4 weeks of the date of obtaining the noise levels required to demonstrate compliance with table 1. The mitigation measures shall be implemented in full within 2 months of the scheme being agreed with the local planning authority unless an extension of time is permitted or otherwise agreed by the local planning authority.

Reason: To safeguard the living conditions of nearby residents in accordance with LDP Policy SP2.

16. 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 unless otherwise agreed in writing 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 and approved in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the local planning authority. The timescale for the above actions shall be agreed in writing with the local planning authority within two weeks of the discovery of any unsuspected contamination.

Reason: To safeguard users of the proposed development and to accord with LDP Policy SP2.

17. 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 and approved in writing by the local planning authority in advance of its importation. Only material approved by the local

planning authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance.

Reason: To safeguard users of the proposed development and to accord with LDP Policy SP2.

18. No development shall take place until a scheme to enable the provision of gigabit capable broadband infrastructure from the site boundary to the building hereby permitted has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To support the roll-out of digital communications infrastructure across Wales in accordance with Policy 13 of Future Wales.



Costs Decision

by Mr A Thickett BA (Hons) BTP Dip RSA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 11.04.2023

Costs application in relation to Appeal Ref: CAS-02029-Z3F8M4

Site address: Land at Wickes Car Park, Waterton, Bridgend, CF31 3XX

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
 - The application is made by Triple Jersey Limited for a full award of costs against Bridgend County Borough Council.
 - The Hearing, held on 7 March 2023, was in connection with an appeal against the refusal of planning permission for the erection of a Class A3 restaurant and drive-thru (Burger King) together with associated external covered terrace, screened refuse store, parking, landscaping and associated works.
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Decision

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

Procedural Matter

2. The appellant's application and Council's rebuttal were submitted in writing. At the Hearing the Council was given leave to correct its rebuttal against the application for costs made by the appellant to address the appeal being made against the refusal of planning permission rather than non-determination. The Council's amended rebuttal went beyond correcting the error and contained evidence to support its case regarding the capacity of the local highway network. As the evidence is material to the determination of the appeal, I accepted it and the appellant given time to respond.

Reasons

3. Section 12, 'Award of Costs' of the Development Management Manual advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. The appellant's claim that the Council failed to act constructively during the processing of the planning application is disputed and both sides produce e mails to justify their positions. I see no reason or benefit in going through who said what to whom and when before the application was determined. The costs regime, with limited exceptions, applies to the appeal process and in my view, the question is; did the Council produce evidence to substantiate the reasons for refusal?

5. I acknowledge the A48 is a busy road and pedestrians need to cross with care. However, the Council produced no technical evidence, by way of data or studies to support the assertion that the level of traffic or highway geometry on the A48 is such that it is a barrier to pedestrians reaching the shops and services on its southern side. My own experience, visiting the site at rush hour, is that it is possible to cross the A48 safely. I do not consider, therefore, that the Council produced sufficient evidence to support its concerns regarding the safety of pedestrians. It follows that the Council's concerns with regard to sustainability and parking are also unsubstantiated by evidence.
6. The appellant's submissions relating to swept paths and the operation of the proposed parking and serving arrangements was not countered by any empirical evidence by the Council. Whilst the Council may wish its Parking Standards Supplementary Planning Guidance (SPG) specified where spaces serving drive through customers should be located, it does not and its insistence that they be provided before the ordering point is not supported by the SPG.
7. Turning to capacity, in its appeal statement and at the Hearing, the Council's position was to attempt to rubbish the appellant's evidence. Until the submission of the amended costs rebuttal the Council produced no evidence of its own to support its arguments that the local highway network could not accommodate the traffic generated by the proposed development. However, neither the review of the 'Brocastle assessment' in 2017 or the district wide Strategic Transport Assessment supporting the emerging LDP are to be favoured over the more recent and site specific assessments carried out by the appellant. Further, whilst these studies may have highlighted potential issues and justified the request for further assessment, they do not provide evidence to substantiate the Council's position regarding capacity.
8. Turning to procedural matters, the submission of late evidence by the Council after the Hearing was closed, constitutes unreasonable behaviour. Whilst the appellant would have needed to respond to this evidence had it been submitted at the proper time, addressing new evidence after the Hearing closed would have inevitably resulted in the appellant being put to more expense than had it been submitted when it was preparing its case for the appeal.

Conclusion

9. I therefore find that unreasonable behaviour, on both substantive and procedural grounds, resulting in unnecessary expense has been demonstrated and that a full award of costs is justified.

Costs Order

1. In exercise of the powers under section 322C and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Bridgend County Borough Council shall pay to Triple Jersey Limited, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
2. The applicant is now invited to submit to Bridgend County Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Thickett

Inspector



Appeal Decision

by R H Duggan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 26-04-2023

Appeal reference: CAS-02528-C0V8D6

Site address: 87 Ffordd Yr Ehedydd, North Cornelly, Bridgend CF33 4PD

- 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 Glen Girletz against the decision of Bridgend County Borough Council.
 - The application Ref P/22/391/FUL, dated 29 June 2022, was refused by notice dated 14 November 2022.
 - The development proposed is 'Front garden development: Erect a supporting wall and boundary railings; create parking area; lower kerb to allow access for parking area.'
 - A site visit was made on 18 April 2023.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Glen Girletz against Bridgend County Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description set out in the banner heading above is taken from the Council's decision notice as this more accurately and succinctly describes the development being proposed. Therefore, my consideration of this appeal is based upon this description, and I consider that there would be no prejudice in using this in my decision.

Main Issues

4. I consider the main issues to be the impact of the development on the character and appearance of the street scene and on highway safety.

Reasons

Character and Appearance

5. The appeal property is a detached two-storey dwelling located within a modern housing estate. Restrictions were imposed by a condition on the planning permission for the

development of the estate which removed permitted development rights for the erection of any boundary treatment to the front of the dwellings in order to retain the character and openness of the street frontages. Therefore, the housing estate has been designed with no individual boundary treatment delineating each property. This layout conveys a sense of space and helps to soften the urban grain.

6. The appeal site is an open area of land laid to grass which lies in front of the main elevation of No. 87. It is a prominent area of land located on the corner of Ffordd Yr Ehedydd/Skylark Road and Angel Way. It was brought within the curtilage of the host property when planning permission was approved in 2019 (Council Reference: P/19/628/FUL), and a restriction on permitted development rights for boundary treatment was also included as a condition on the planning permission. The proposed development would provide an additional off-street car parking space on this area of land and would involve the erection of a supporting wall and boundary railings with a dropped kerb allowing access in to the parking area.
7. I saw that there are front boundary treatments on some houses in the immediate locality and are generally composed of railings or low brick walls, some have low hedges, but for the most part frontages do not have boundary treatments. There are also some walls of a height of around 2 metres on return boundaries and where a side boundary to a property is adjacent to a highway. I cannot be certain that any of the boundary treatments that I saw benefit from planning permission or that they were considered in the same policy context. Moreover, they do not provide a visual context or a justification for the appeal scheme.
8. Nevertheless, due to the site's prominent corner location the physical enclosure of this open area of land would be at odds with the coherent and minimalist boundary treatments found on other frontages that are in the vicinity of the site. The scheme would present an enclosed frontage to passers-by which contrasts markedly with the sense of space that characterises the frontages of nearby dwellings and those found within the overall development. Consequently, the boundary treatment being proposed along with the supporting wall would be seen as dominant features that would appreciably harm the character and appearance of the street scene. This harm would outweigh the benefits for the appellant that would result from the proposed scheme.
9. As such, the proposed development would conflict with Policy SP2 of the Adopted Bridgend Local Development Plan (LDP) 2013. This policy requires all development to contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment by having a design of the highest quality possible, whilst respecting and enhancing local character and distinctiveness and landscape character (criterion 2).

Highway Safety

10. The Council's Senior Transportation Development Control Officer raised concern at the application stage in respect of the vehicular access to the parking bay and its associated risks to highway safety, and that the property would provide a total of 4 car parking spaces rather than the three required by the Council's parking standards.
11. The parking space would be located immediately adjacent to the estate road with no available turning area within the site. Whilst no details of the available visibility splays have been provided by either party, it was apparent from my own observations that visibility is restricted due to the alignment and bend of the road at the junction of Angel Way and Skylark Road. These factors significantly obstruct the line of sight into the highway from the proposed parking space with the result that drivers of vehicles leaving

the parking space would have a restricted view of oncoming vehicles or pedestrians before pulling into the highway. This would represent a significant risk to the safety of highway users.

12. Furthermore, there is no turning space within the site and there is the potential for users of the parking space to undertake manoeuvres in the highway. I find the potential for turning in the road to represent a considerable risk to both drivers and pedestrians.

13. For the reasons set out above, I am satisfied that the proposed development would result in an adverse impact on highway safety, in conflict with Policies SP2 and SP3 of the LDP.

Conclusions

14. Having regard to the above and considered all other matters raised, I conclude that the appeal should be dismissed.

15. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objectives of making our cities, towns and villages even better places in which to live and work.

R. Duggan

INSPECTOR



Costs Decision

by R H Duggan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 26-04-2023

Costs application in relation to Appeal Ref: CAS-02528-C0V8D6

Site address: 87 Ffordd Yr Ehedydd, North Cornelly, Bridgend CF33 4PD

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
 - The application is made by Mr Glen Girletz for a full award of costs against Bridgend County Borough Council.
 - The appeal was against the refusal of planning permission for a 'Front garden development: Erect a supporting wall and boundary railings; create parking area; lower kerb to allow access for parking area.'
 - A site visit was made by the Inspector on 18 April 2023.
-

Decision

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

The submissions for Mr Glen Girletz

2. The costs application was submitted in writing and states that a claim for costs is made due to the 25 week wait for a decision to be made, which was 12 weeks after the Council requested additional time to make the decision; the decision was made on the same day as the applicant requested an update from the Council and a complaint made regarding the delay; it's the same planning officer that made the decision to refuse the appeal scheme that imposed conditions on the previous planning permission in 2019; no site visit report was prepared; and the applicant has also previously paid a fee for a site visit from the highways department regarding a dropped kerb.

The response by Bridgend County Borough Council.

3. No response has been submitted by the Council.

Reasons

4. The Section 12 Annex 'Award of Costs' of the Development Management Manual ('the Annex') advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process. In terms of the advice as contained within the Annex, unreasonable behaviour can be procedural i.e. relating to the process, or substantive i.e. relating to issues of substance

arising from the merits of an appeal or application; the Annex cites examples of such behaviour.

5. I consider that the Council has not acted unreasonably in preventing the development and has reasonably articulated its concerns in relation to the development plan and other material considerations, as set out in paragraph 3.11(a) of Section 12 Annex. The Council's delegated Officers Report provides specific, reasoned and objective analysis of the development and has set out its concerns on these matters with adequate analysis of the context of the site and surroundings and the harm that would be caused to the character and appearance of the street scene and on highway safety.
6. The matters in dispute are thus ones of disagreement between the parties which could only have been resolved at appeal. As the appeal could not have been avoided no unnecessary or wasted expense has been incurred. The stance the Council took was not unreasonable in terms of costs referred to in the Annex.
7. In addition, the Applicant should have been aware of the restrictions imposed by a condition on the original planning permission for the development of the estate. This condition removed permitted development rights for the erection of any boundary treatment to the front of the dwellings in order to retain the character and openness of the street frontages. This restriction was also included as a condition on the planning permission to include the land within the curtilage of No. 87 Ffordd Yr Ehedydd (Council Reference: P/19/628/FUL) which was approved in November 2019.

Conclusions

8. Having regard to the reasons for refusal put forward by the Council in its decision notice and all other relevant considerations and the provisions of the Well Being and Future Generations Act, I conclude that the Council's decision to refuse permission did not amount to unreasonable behaviour. The application for an award of costs against the Council therefore does not succeed.

R Duggan

INSPECTOR

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TRAINING LOG

All training sessions will be held in the Council Chamber but can also be accessed remotely via Microsoft Teams.

<u>Subject</u>	<u>Date</u>
Section 106s and procedural matters	3 May 2023
Dwr Cymru / Welsh Water – Role in the Planning System	14 June 2023
Building in Conservation Areas	2023
Enforcement (via Planning Aid Wales)	
PEDW Briefing for Members	
Public Rights of Way / Bridleways	
Tree Policy - Green infrastructure	
Wellbeing and Future Generations Act Commissioner	

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

Recommendation:

That the report of the Corporate Director Communities be noted.

JANINE NIGHTINGALE
CORPORATE DIRECTOR COMMUNITIES

BACKGROUND PAPERS

None

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