

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



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

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

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



Annwyl Cyngorydd,

## **PWYLLGOR DATBLYGIAD A RHEOLI**

Cynhelir Cyfarfod Pwyllgor Datblygiad a Rheoli Hybrid in the Council Chamber - Civic Offices, Angel Street, Bridgend, CF31 4WB ar **Dydd Iau, 15 Mehefin 2023** am **10:00**.

## **AGENDA**

1. Ymddiheuriadau am absenoldeb  
Derbyn ymddiheuriadau am absenoldeb gan Aelodau.
2. Datganiadau o fuddiant  
Derbyn datganiadau o ddiddordeb personol a rhagfarnol (os o gwbl) gan Aelodau / Swyddogion yn unol â darpariaethau'r Cod Ymddygiad Aelodau a fabwysiadwyd gan y Cyngor o 1 Medi 2008. Dylai aelodau cael rolau deuol o'r fath ddatgan buddiant personol mewn perthynas â'u haelodaeth o Gyngor Tref / Cymuned fath a rhagfarnllyd os ydynt wedi cymryd rhan yn yr ystyriaeth o eitem ar y Cyngor Tref / Cymuned a geir yn Adroddiadau y Swyddog isod.
3. Ymweliadau Safle  
I gadarnhau dyddiad dydd Mercher 26/07/23 ar gyfer archwiliadau safle arfaethedig sy'n codi yn y cyfarfod, neu nodi cyn cyfarfod nesaf y Pwyllgor gan y Cadeirydd.
4. Siaradwyr Cyhoeddus  
I gynghori aelodau enwau'r siaradwyr cyhoeddus rhestredig i siarad yn y cyfarfod heddiw (os o gwbl).
5. Taflen Gwelliant  
Bod y Cadeirydd yn derbyn taflen gwelliant pwyllgor rheoli datblygu fel eitem frys yn unol â rhan 4 (paragraff 4) Rheolau Gweithdrefn y Cyngor, er mwyn caniatáu i'r Pwyllgor ystyried addasiadau angenrheidiol i adroddiad y Pwyllgor, felly ynghylch hwyr yn ystyried sylwadau a diwygiadau sy'n ei gwneud yn ofynnol i gael eu lletya.

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

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

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

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6.	<u>Canllawiau Pwyllgor Datblygiad a Rheoli</u>	3 - 6
7.	<u>P/14/838/FUL - Tir i'r dwyrain o Gwm Felin ac i'r de o Craig Terrace /Ebenezer Terrace, Melin Ifan Ddu, Pen-y-bont ar Ogwr CF32 8RS</u>	7 - 32
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9.	<u>Apeliadau</u>	49 - 60
10.	<u>Dirprwyo Caniatâd i Adeiladau Rhestredig</u>	61 - 106
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12.	<u>Materion Brys</u> I ystyried unrhyw eitemau o fusnes y, oherwydd amgylchiadau arbennig y cadeirydd o'r farn y dylid eu hystyried yn y cyfarfod fel mater o frys yn unol â Rhan 4 (pharagraff 4) o'r Rheolau Trefn y Cyngor yn y Cyfansoddiad.	

Nodyn: Bydd hwn yn gyfarfod Hybrid a bydd Aelodau a Swyddogion mynychu trwy Siambr y Cyngor, Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont ar Ogwr / o bell Trwy Timau Microsoft. Bydd y cyfarfod cael ei recordio i'w drosglwyddo drwy wefan y Cyngor. Os oes gennych unrhyw gwestiwn am hyn, cysylltwch â [cabinet\\_committee@bridgend.gov.uk](mailto:cabinet_committee@bridgend.gov.uk) neu ffoniwch 01656 643147 / 643148.

Yn ddiffuant

**K Watson**

Prif Swyddog, Gwasanaethau Cyfreithiol a Rheoleiddio, AD a Pholisi Corfforaethol

**Dosbarthiad:**

Cynghorwyr

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

Cynghorwyr

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

Cynghorwyr

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

## Development Control Committee Guidance

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

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

### STANDARD CONDITIONS

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

#### Time-limits on full permission

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

#### Time-limits on outline permissions

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

#### Variation from standard time-limits

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

### STANDARD NOTES

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

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

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

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

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

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

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

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

## **THE SITE INSPECTION PROTOCOL**

The Site Inspection Protocol is as follows:-

### **Purpose**

#### **Fact Finding**

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

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

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

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

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

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

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

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

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

### **Inappropriate Site Visit**

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

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

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

#### **Attendance**

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

### **Officer Advice**

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

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

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

### **Code of Conduct**

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

### **Record Keeping**

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

### **Site Visit Summary**

In summary site visits are: -

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

### **Frequently Used Planning Acronyms**

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

- REFERENCE:** P/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

This application was included on the agenda for the May meeting of the Development Control Committee but was deferred to allow an additional consultation to be undertaken. A letter was sent on 3<sup>rd</sup> May 2022, but no comments have been received.

## **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.



Figure 1 – Aerial Photograph of Site

The latest layout plan proposes a mix of 2 bed and 3 bed dwellings and 1 bed 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.



Figure 2 – Site Layout Plan

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 negotiate an acceptable 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 satisfied 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 that 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 related 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 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

### COMMENTS

#### Community Council:

No comments received to the amended plans received in July 2022. Ogmores 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

No objection subject to conditions.

## Services

### **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 are 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 Ogmre 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 have submitted 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 be to the significant detriment of their amenities.

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. Colleagues in Education have indicated that on the basis of current data, capacity exists within the schools to accommodate the pupils that would be generated by the development. No education contribution is therefore required.

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 3 – 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"><li>• Site Location Plan Ref: SLP-01</li><li>• Site Layout Ref: TP-02 Revision J</li><li>• External Works Layout Ref: EW-01 Revision G</li><li>• Engineering Layout Ref: 10290 – 100 Revision P9</li><li>• Drainage Layout Ref: 10290 – 102 Revision P2</li><li>• Access and Movement Plan Ref: AM-01 Revision D</li><li>• Walk-up Flat Planning Drawings Ref: BM58-59-PL-01 Revision A</li><li>• Walk-up Flat Special Planning Drawings Ref: BM58-59SP-PL-01 Revision A</li><li>• Carport Planning Drawing Ref: CP-01</li><li>• Larch House Type Elevations Ref: LAR-PL-01 Revision B</li></ul>
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	<ul style="list-style-type: none"> <li>• Olive House Type Elevations Ref: OLV-PL-01 Revision B</li> <li>• House Finishes Layout Ref: HF-01 Revision D</li> <li>• Storey Height Plan Ref: SH-01 Revision D</li> <li>• Street Scenes Ref: SS-01 Revision C</li> <li>• Softworks Plan Ref: 1900-URB-XX-XX-DR-LA-0001-P06</li> <li>• Planting Schedule Ref: 1900-URB-XX-XX-DR-LA-0003-P05</li> </ul> <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"> <li>• 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).</li> <li>• 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.</li> <li>• 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.</li> </ul> <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"> <li>• Construction methods including details of materials, waste, contaminated land.</li> <li>• General Site Management: construction/phasing programme, site clearance requirements, construction drainage, site set-up plan detailing sensitive receptors and buffers zones, relevant protection measures</li> <li>• Biodiversity Management: tree and hedgerow protection, invasive species management.</li> <li>• Soil management: topsoil strip, storage and amelioration for re-use.</li> <li>• Control of Nuisances: restrictions on timing/duration/frequency of works, dust control measures and control of light spill.</li> <li>• Resource Management: fuel and chemical storage, waste management, water consumption, energy consumption.</li> <li>• Traffic Management: construction vehicle routes to and from the site including</li> </ul>

	<p>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</p> <ul style="list-style-type: none"> <li>• Pollution Prevention: demonstrate compliance with relevant Guidelines for Pollution Prevention, incident response plan, site drainage plan.</li> <li>• Ecological clerk of works to ensure construction compliance with approved plans and environmental regulations.</li> <li>• Details of the persons/bodies responsible for activities associated with the CEMP and emergency contact details.</li> </ul> <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 &amp; Technical Note 3187/TN1_Rev3 by Hunter Acoustics dated 13 July 2022 shall be implemented as follows:</p> <ul style="list-style-type: none"> <li>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.</li> <li>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/m<sup>2</sup>. 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).</li> <li>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</li> <li>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/m<sup>2</sup>. The barrier shall be maintained in that condition and retained in perpetuity.</li> <li>e) All boundary treatments shall be erected as specified on drawing TP-02, Rev J</li> <li>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.</li> <li>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.</li> </ul> <p>All the above works shall be implemented prior to any of the dwellings being 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</p>

	<p>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 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</p>

	<p>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 on External Works Layout Ref: EW-01 Revision G, 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 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>

## \* THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS \*

- 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.

	<p>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.</p> <p>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.</p>
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**JANINE NIGHTINGALE**  
**CORPORATE DIRECTOR COMMUNITIES**

**Background Papers**  
None



**REFERENCE:** P/22/811/FUL

**APPLICANT:** Brynteg Comprehensive School c/o Mr A Rosser, Ewenny Road, Bridgend, CF31 3ER

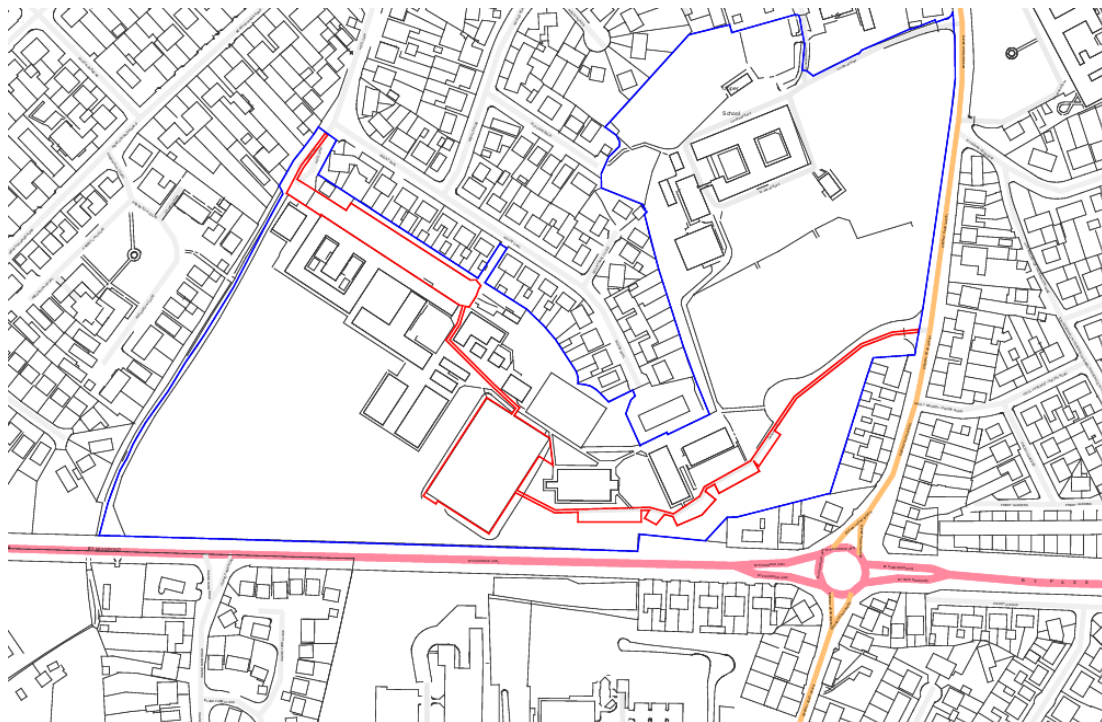
**LOCATION:** Brynteg Comprehensive School Ewenny Road Bridgend CF31 3ER

**PROPOSAL:** New artificial hockey turf pitch with associated mesh fencing and sports lighting (to replace existing redgra hockey pitch)

**RECEIVED:** 6 December 2022

## SITE DESCRIPTION

This application seeks full planning permission for a new artificial hockey turf pitch (to replace an existing redgra hockey pitch) with associated mesh fencing and sports lighting consisting of 6 lighting columns and biodiversity enhancements at Brynteg Comprehensive School.



*Figure 1 – Site Location Plan*

The application site lies within the Main Settlement of Bridgend, as defined by Policy PLA1 of the adopted Local Development Plan (2013). It comprises the site of an existing hockey pitch associated with Brynteg Comprehensive School which occupies the surrounding site. The majority of the wider school site is screened by trees and vegetation which border its perimeter.

Surrounding the school site is the A48 and B4265 due south and east respectively with residential dwellings encompassing the site in most directions. The nearest residential properties are approximately 50m to the north-east (Mount Earl) and 85m to the south-west (Island Farm Road). Other residential streets that surround the site are off Preswylfa Court to the west, Heol Gam to the north-west, Ewenny Road to the east.

The school has two entrances, one off Ewenny Road and one off Heol Gam. The location plan shows the extent of the school site outlined in blue and the hockey pitch and both accesses and car parks outlined in red.

## DESCRIPTION OF PROPOSED DEVELOPMENT

The proposal consists of an Artificial Hockey Turf Pitch (HTP) to replace the existing redgra hockey pitch which is currently used by the school for many aspects of Physical Education (PE) with curriculum use between 0900 and 1500hrs. After-school activities occasionally take place on the pitch until 1800hrs on weekdays. It is also used by the local community outside of school hours, where weather and daylight hours permit such use.

Inclement weather leaves the area unusable for large periods of the winter months. This impedes outdoor sports potential for the pupils as well as the local community. The new artificial surface would allow for all manner of sports to be played regardless of prevailing weather conditions as it is more resilient than natural grass or the current Redgra surfacing. There will also be associated green weld mesh fencing to the perimeter and biodiversity enhancements such as bat boxes, hedgerow planting, landscaping and landscape management.

The proposed Associated LED sports lighting system consists of 6 columns situated around the perimeter of the pitch (3 on either side). The columns measure 13m 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. It is proposed to operate the flood lights when the facility is being used between the following hours:

- Weekdays 09:00-21:00
- Saturdays 09:00-17:00
- Sundays & Bank Holidays 10:00-15:00

with the floodlights to be in use following sundown in the evenings with timings to vary throughout the year. The applicant has advised that the lights would be on a timer and would automatically switch off at the set times if they have not already been turned off manually.

The planning application is supported by a design statement, details of the lighting columns head unit design and details of the likely levels of light spillage that would emit from such floodlights, a noise impact assessment report and an ecology/bat appraisal. Photographs of the existing hockey pitch are shown below.



*Figure 2 - Photographs of existing hockey pitch*

## RELEVANT HISTORY

P/22/84/BCB

Reg 3 - deemed consent

Installation of 4 new DDA parking

	21/03/2022	bays and footpath (to west of bus park)
P/19/466/BCB	Reg 4 - deemed consent 24/10/2019	Proposed new build office & multi-agency hub.
P/04/723/FUL	Granted (no conditions) 16/08/2004	Provision Of 3 Sets Of Parking Bays. 12 Bays Per Section. 36 In Total.
P/98/1005/BCB	Reg 3 - deemed consent 22/12/1998	New 10 Laboratory Science Block On Existing Playing Fields Within School Grounds
P/97/916/BCB	Reg 3 - deemed consent 02/12/1997	New Science Block - Popular Schools Initiative Containing Science Classrooms

## **PUBLICITY**

This application has been advertised through direct neighbour notification. The consultation period expired on 17<sup>th</sup> April 2023.

## **CONSULTATION RESPONSES**

**Cllr Freya Bletsoe** – Requested the application be determined by the Development Control Committee as there have been concerns raised by residents around a variety of issues such as Access and Parking, Noise Pollution and Light Pollution.

**Shared Regulatory Services: Housing and Pollution** – No objection.

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

**Drainage Officer** - No objection

**Destination and Countryside Management (Ecology)** – No objection

**Bridgend Town Council** - Support in principle, the creation of a new sports facility in Brynteg School, however further to concerns from local residents, Bridgend Town Council recommend that the following matters are given due consideration:

- That bookings last no longer than 8pm
- That where possible, the main access off Ewenny Road is used
- That due consideration must be given to the light and noise concerns from residents, notwithstanding the professional reports provided

## **REPRESENTATIONS RECEIVED**

Four neighbouring properties objected to the proposal (51, 56 and 62 Mount Earl and 3 Heol Gam) and their comments are summarised into the following categories below.

### ***Residential Amenity***

- Concerns raised that the proposed lighting will cause light and noise nuisance.
- It is stated that, at present, there are no pupils on the school site after 6pm. Properties were bought on the basis that after school hours and during school holidays we could enjoy time in our garden without noise from the school facilities being used let alone community sports until 9pm weekdays, 5pm Saturdays and 3pm on Sundays.
- Concerns over lights being left on.

- If there are games taking place, then are we to expect supporters? If so, has the noise report taken into consideration this noise on top of the noise generated from the sport?

### ***Highway and Pedestrian Safety***

- Concerns raised over car parking and increased cars during the proposed times being a problem for the surrounding streets, especially after 9pm and Heol Gam is a safe route to school.
- A resident at 3 Heol Gam has experienced significant traffic conflicts and obstructed access to their drive on multiple occasions, primarily from School traffic.
- A resident disputes the applicant's statement that the entrance to the school off Ewenny Road is the secondary entrance and Heol Gam the Main Entrance.
- The proposed development is unacceptable unless there is a planning condition stating that the sole vehicular access is from Ewenny Road with a designated parking.
- Generally, the local area was built in the 1930s when road traffic was significantly less than in the second half of the 20th Century; therefore, road widths and vehicle volumes were not considered and designed into the housing developments.
- The access/parking, as stated in the application, is an unacceptable aspect of development in this location without a submitted operational management plan that can then be subject to a planning condition.
- No traffic survey has been carried out when clearly there will be traffic pollution.

### ***Other Issues***

- A neighbour is not happy with proposed hours and there is no mention of term time only. Would this facility be used during school holidays?
- Who would be responsible for locking up and checking the facility, turning lights off when not in use etc? 9pm in the evening seems late to be playing hockey.
- A local resident has stated there are many nuisances that come from the school i.e. noise, parking, lights being left on at night etc.
- A concern has been raised that the development would affect the value of neighbouring properties.
- A resident has stated there should be an Operation Management Plan for uses, lighting and access.
- A neighbour has stated that the community use is the major use.
- Bookings should last no longer than 8pm.

## **RESPONSE TO REPRESENTATIONS RECEIVED**

### ***Residential amenity***

- This has been addressed within the report and no residential property would be adversely affected by light overspill.

- The school does not need planning permission to allow the public to access their facilities outside of school hours. It should be noted that Welsh Government are invested in funding practical ways of improving school facilities to enable greater community use.
- The applicant has advised that the lights would be fitted with a timer.
- The noise report has stated there would be no unacceptable impacts. However, as stated above, this application is not for the use, but the new surface, fencing and lighting. The school currently allows the facility to be used outside of school hours.

### ***Highway and Pedestrian Safety***

- This application does not relate to the use, the school currently allows this facility and others to be used outside of school hours, however, there is sufficient car parking located within the school that could be utilised. The safe route to school would not be affected.
- Anyone *wishing* to use the school facilities outside of school hours will be able to use either entrance.
- As stated above, the hockey pitch is already there and being used. This application is to improve the facility. As such it would not be reasonable to restrict access.
- The surrounding highway network accommodates the school and the evening traffic will be instead of, not in addition to, school related traffic.
- As stated above the use is not part of the application, however, there is ample parking within the school that could be utilised outside of school hours.
- An application of this limited scale and impact does not warrant a traffic survey.

### ***Other Issues***

- This application is for a new hockey pitch surface, fencing, lighting and biodiversity enhancements. The hockey pitch is already there and is currently used outside of school hours. The school does not need planning permission to use the facility outside of school hours. It would be for the school to decide when the facility would be used.
- As stated above, the school would be responsible for and manage bookings, however, a condition will be imposed to ensure lights are turned off. The school has also advised that the lights would be controlled by a timer which would turn them off automatically at the set time.
- Current issues at the school are not material to this application. Each application is determined on its own individual merits.
- Loss of property value is not a material planning consideration.
- This application is not for the use, it would be for the school to manage the facility. However, lighting would be controlled via a condition.

## **RELEVANT POLICIES**

### **National Planning Policy**

Planning Policy Wales (Edition 11) (PPW11) was revised and restructured in February 2021 to coincide with publication of, and take into account the policies, themes and approaches set out in, Future Wales - the National Plan 2040 and to deliver the vision for Wales that is set out therein.

Future Wales now forms part of the Development Plan for all parts of Wales, comprising a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. All Development Management decisions, strategic and local development plans, planning appeals and all other work directed by the development plan need to accord with Future Wales.

The primary objective of PPW11 is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015 and the Well-being of Future Generations (Wales) Act 2015.

PPW11 takes the seven *Well-being Goals* and the five *Ways of Working* as overarching themes and embodies a placemaking approach throughout, with the aim of delivering *Active and Social Places*, *Productive and Enterprising Places* and *Distinctive and Natural Places*. It also identifies the planning system as one of the main tools to create sustainable places, and that placemaking principles are a tool to achieving this through both plan making and the decision making process.

PPW11 Para 4.5.1 states *“Recreational spaces are vital for our health, well-being and amenity, and can contribute to an area’s green infrastructure. They provide a place for play, sport, healthy physical activity and a place to relax often in the presence of nature, and they contribute to our quality of life. Networks of high quality, accessible green spaces and recreation spaces will also promote nature conservation, biodiversity and provide enjoyable opportunities for residents and visitors to participate in a wide range of physical activities. These activities are important for the well-being of children and adults and for the social, environmental, cultural and economic life of Wales.”*

Para 4.5.6 also states *“Planning authorities should encourage the multiple use of open space and facilities, where appropriate, to increase their effective use. ‘Beyond the Six-acre Standard’42, produced by Fields in Trust, is a source of helpful advice to planning authorities on providing open space and outdoor sport and play through the planning system.”*

PPW11 is supported by a series of more detailed Technical Advice Notes (TANs), of which the following are of relevance: -

- Technical Advice Note (TAN) 5 Nature Conservation and Planning
- Technical Advice Note (TAN 11) Noise
- Technical Advice Note (TAN) 12 Design
- Technical Advice Note (TAN) 16 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 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.

### **Local Policies**

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

#### *Strategic Policy*

- Policy SP1: Regeneration led Development
- Policy SP2: Design and Sustainable Place Making
- Policy SP4: Conservation and Enhancement of the Natural Environment
- Policy SP13: Social and Community facilities

#### *Topic Based Policy*

- Policy PLA1: Settlement Hierarchy and Urban Management
- Policy ENV5: Green infrastructure
- Policy ENV7: Natural resource protection and Public Health
- Policy COM11: Provision of Outdoor recreation facilities

### **Supplementary Planning Guidance**

SPG19 – Biodiversity and Development

### **APPRAISAL**

Having regard to the above, the main issues to consider in this application relate to the principal of development, the amenities of neighbouring residents, visual amenity, biodiversity, drainage and highway/pedestrian safety.

### **Principle Of Development**

The site is located within the main settlement of Bridgend as defined by Policy PLA1 Settlement Hierarchy and Urban Management of the Bridgend Local Development Plan (LDP) adopted in 2013. Policy PLA1 states that development in the County Borough will be permitted where it provides the maximum benefits to regeneration at a scale that reflects the role and function of the settlement.

Policy SP2 Design and Sustainable Place Making of the LDP states that all development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment.

Policy SP13 Social and community facilities states *“In order to maintain and improve the quality of life of residents the following social and community uses and/ or facilities will be retained or enhanced,”* with Health and Wellbeing being one of the categories.

This application is for an improved hockey pitch facility which consists of a new playing surface, perimeter fencing, flood lighting and biodiversity enhancements. As such, it is considered that, in principle, and subject to satisfying the requirements of LDP Policy SP2, the proposed development is acceptable and accords with the Bridgend Local Development Plan (2013).

### **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, which are 13m in height, are to be situated in close proximity to the school building which is of a contemporary design. Whilst the 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 hockey pitch are set back from the public highway with views of the site being distanced 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 existing redgra surface will be replaced with an artificial sand dressed turf pitch which would be green in colour and marked out in a standard hockey pitch configuration. It is considered that this green pitch would blend into the school surroundings better than the exiting redgra surface

In terms of the proposed fencing around the pitch this will be 3m in height along the sides of the pitch and 4.5m high at both ends with gates positioned within the fence to allow access. The fence will be a welded mesh powder coated green. This type of fence has a relatively open appearance and is synonymous with sports facilities and schools. As such the proposed fencing would not look out of place within a school setting and is well away from the boundaries of the site.

In terms of landscaping, it is proposed to provide hedgerows and areas of wildflower planting and to manage these accordingly. Conditions will be imposed to ensure that the proposals are acceptable and will provide visual enhancements to the wider school area.



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.

The nearest residential properties are approximately 50m to the north-east (Mount Earl) and 85m to the south-west (Island Farm Road) and other residential properties are further away. As such, given the nature of the proposal and the separation distances, it is unlikely that the proposed development (new surface to hockey pitch, flood lighting and perimeter fencing) would have any unacceptable impacts in terms of overbearing and overshadowing or loss of privacy to any residential or neighbouring property.

**Lighting**

In terms of light pollution, the proposed floodlighting columns will be situated around the perimeter of the pitch (3 on either side). The columns measure 13m 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. It should be noted that the applicant has worked with the Local Authority to minimise any lighting overspill. Figure 3 below shows the proposed lighting impact with the outside blue line being 1 lux.

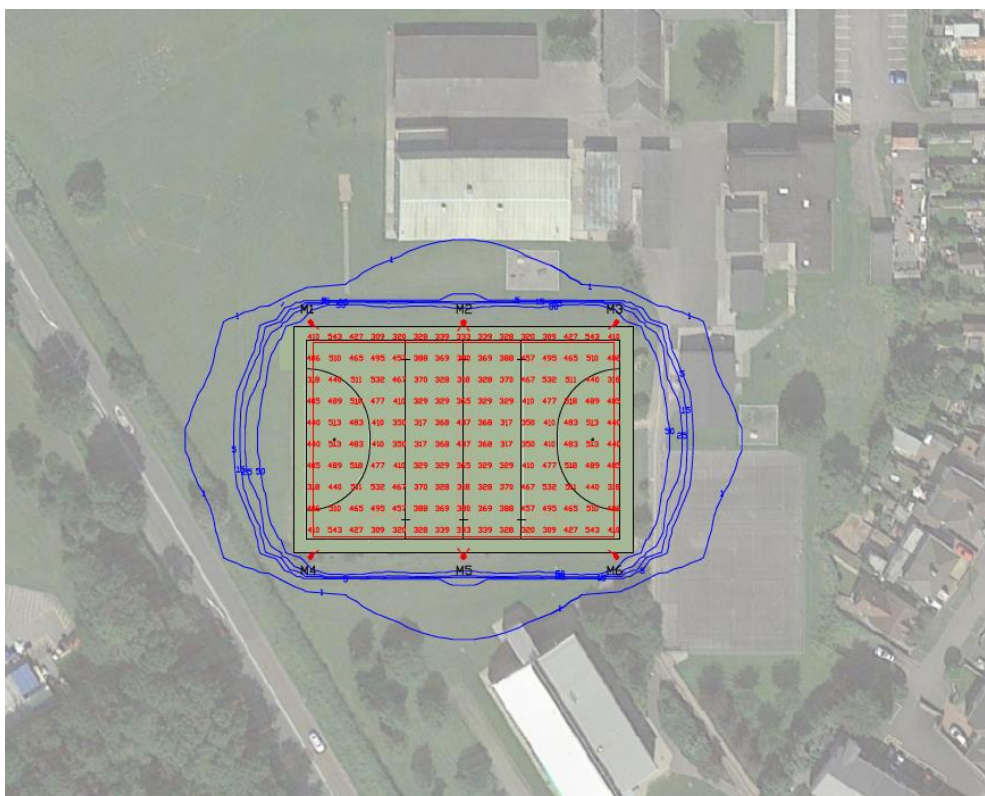


Figure 3 - Lighting overspill diagram

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 (*post curfew is the time after which stricter requirements for the control of obtrusive lights will apply which is generally 2300hrs*) although no use of the floodlights will be permitted whatsoever past 9pm which will be imposed by a condition.

The applicant has advised that the lights would be on a timer which would turn them off at the set time or a manual shut off if they are not being used. The submitted lighting plans suggest that the level of light spill at the boundary of any residential or neighbouring properties surrounding the site will be less than 1 lux.

The Council's Public Protection Officer has carefully assessed the submission which includes details regarding the lux levels, details of the lighting columns and details of the proposed hours of operation and has raised no objections to the scheme. They consider that the light power and location of the floodlights have been designed so as to ensure that they would not cause a statutory nuisance to neighbouring residents.

### **Noise**

Policy SP2 Criterion (8) also states "Development should Avoid or minimise noise, air, soil and water pollution". To inform the application the applicant has provided a Noise assessment by Healthy Abode Acoustics dated 16<sup>th</sup> November 2022. The results of the noise survey, the 2D noise mapping, illustrative layouts and the calculations, the predicted resultant noise levels from the proposed hockey pitch are predicted to meet appropriate and reasonable guidance and the relevant noise criteria, without mitigation. Therefore, an adequate level of protection against noise for occupants of the nearest noise sensitive receptor is afforded, including when factoring in potential uncertainty. As stated above the timings of the use of the floodlights will be controlled so as to limit the hours at which the hockey pitch can be used within the winter (darker months).

The noise report has been considered by the Council's Public Protection Officer who has no objection to the proposal in terms of noise and is satisfied the development would not cause a statutory nuisance to neighbouring residents.

It should also be noted that the school does not need permission from the Local Planning Authority to allow their facilities to be used by the public outside of standard school opening times. Many schools within the County Borough allow the public to use their sports facilities outside of school times and this is managed and controlled by each school independently. This benefits both the school and the wider community. This application relates to improving the playing surface, providing fencing and floodlighting.

To conclude it is considered that the proposed development is considered to be acceptable in accordance with criterion (12) of Policy SP2 and guidance contained within PPW11.

### **Ecology**

In assessing a planning application, the Local Planning 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, under the Environment (Wales) Act 2016.

Planning Policy Wales 11 (PPW11) states in Section 6.4.4: *“It is important that biodiversity and resilience considerations are taken into account at an early stage in both development plan preparation and when proposing or considering development proposals.”* it further goes on to state that *“All reasonable steps must be taken to maintain and enhance biodiversity and promote the resilience of ecosystems and these should be balanced with the wider economic and social needs of business and local communities. Where adverse effects on the environment cannot be avoided or mitigated, it will be necessary to refuse planning permission.”*

Technical Advice Note 5: Nature Conservation and Planning states that: *“Biodiversity, conservation and enhancement is an integral part of planning for sustainable development. The planning system has an important part to play in nature conservation. The use and development of land can pose threats to the conservation of natural features and wildlife.”*

As part of the submission a bat transect survey stated that the proposed new Sports Pitch and floodlighting design has the potential to disturb foraging and commuting bat species active on the boundaries of the new pitch. However, implementing the recommended mitigation measures will help ensure the least possible negative impact upon bat activity in the vicinity.

It was originally proposed to erect a 2.8m high close boarded fencing and plant hedgerows to ensure the lighting would be reduced to no greater than 1 lux however this would have resulted in large close boarded fences being erected to prevent light overspill on dark corridors. This was discussed at length with the applicant who worked with the Local Planning Authority to ensure that the lighting was reduced to no greater than 1 lux on areas that were sensitive for bats without the need for large, close boarded fencing. It has also been recommended to plant hedgerows, install bat boxes, plant wildflower mixes and manage these areas appropriately to enhance biodiversity and all of these recommendations will be imposed via suitably worded conditions.

It is also proposed not to use the lights after 9pm. Being turned off at this time between May and September would benefit bats during periods where they are more active. As such the condition mentioned earlier relating to the control of the lights would also minimise any impacts relating to bats. The Council’s Ecologist has assessed the proposal and has raised no objection.

Incorporating 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’. As such the proposal is acceptable in terms of Biodiversity.

## **Highways**

Policy SP2 states that all development should have good walking, cycling, public transport and road connections within and outside the site to ensure efficient access. Policy PL11 further states all development will be required to provide appropriate levels of parking.

The applicant has advised that there are 105 parking spaces permanently marked out within the subject site; 70 nearest the Heol Gam entrance and 35 towards the reception area. There would be no perceived change to parking habits during school hours given the works relate to the upgrading of the existing Redgra pitch. Outside of school hours, the local community would have access to the parking spaces, at periods in which the majority of school staff would have vacated the site. Greener and more active means of transport

would also be encouraged.

The Highways Officer has considered the transportation implications of the proposal and advises that, as there are no restrictions on the use of the current pitch, there is no change of use. As such this application relates to a resurfacing of the pitch with the addition of flood lighting and fencing. Accordingly, the use of access points and parking raises no concerns, particularly beyond the school day when the main buildings are vacated by staff and pupils.

In respect of the proposed floodlighting, it is noted from the revised plan that the level of lighting adjacent to the A48 is given as 1 LUX. This is the equivalent of moonlight (during a full moon). This is not considered to generate any glare providing that the initial source of illumination is not directly visible by motorists. In this regard it is noted that the proposed floodlights will be shielded to direct the light downwards. The suggested condition which relates to not being able to directly see the source of illumination will provide a control mechanism to ensure that these are installed correctly and maintained as such. Therefore, the Highway Authority has no objection subject to a condition.

As such, the proposed development is compliant with Policy SP2 of the Local Development Plan (2013) and is acceptable from a highway and pedestrian safety perspective.

### **Drainage**

The Council's Land Drainage Officer has assessed the submitted scheme and notes that the proposed development is not located within a flood risk zone, is not located within 20m of a watercourse and does not propose to increase flood risk elsewhere.

### *Foul Sewerage*

The applicant does not state how foul water will be disposed. However no foul water will be generated from the proposed development.

### *Surface water*

The applicant states surface water will be disposed via SUDs. A cross section of the proposed pitch has been provided. Surface water will be drained through the pitch surface, as existing. Therefore, no further surface water consideration is required.

The development is not changing the drainage characteristics or raising existing levels of the existing site, therefore no sustainable drainage application is required.

As such the Local Authority's Drainage officer has no objection subject to a condition relating to preventing surface water entering and into the mains sewer and a note preventing surface water discharging to the public highway. These recommendations can be imposed via a suitably worded condition and note.

### **CONCLUSION**

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises Future Wales - the National Plan 2040 and the Bridgend Local Development Plan (2013)

The concerns raised by neighbouring residents have been noted and taken into consideration. It is considered that, on balance, the proposal represents an appropriate form of development that would have no unacceptable impacts on visual amenity,

residential amenity, or highway and pedestrian safety, drainage and ecology and the proposal is therefore recommended for approval. Accordingly, the proposed development is in accordance with Policies SP1, SP2, SP3, SP4, SP13 PLA1, ENV5, ENV7 and COM11 of the Bridgend Local Development Plan (2013)

## **RECOMMENDATION**

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

1. The development shall be carried out in accordance with the following approved plans/documents:

- NSBCS001 Rev C Location Plan
- NSBCS002 Rev B Construction Access Plan
- NSBCS003 Rev C Block Plan
- NSBCS004 Rev A Line Marking Plan
- NSBCS005 Rev B Fencing Plan
- NSBCS006 Rev A Cross Section
- Lighting Specification by Siteco
- HL250 13M RL C/W 2no LED Column Elevation
- Floodlighting Plan (showing lux levels) Rev 3
- Design and Access Statement by Nottssport
- Bat Survey by Spectrum Nov 2022
- Noise Impact Assessment HA/AE471/V1by Healthy Abode Acoustics

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

2. Notwithstanding the submitted plans, within 3 months of the date of this consent, a scheme of soft landscape works/biodiversity enhancements shall be submitted to the Local Planning Authority. These details shall include: planting plans; hedgerow planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate; details/methodology of any areas to be managed as wildflower meadows; details of any native tree planting; details of any other biodiversity enhancements; an implementation programme (including phasing of work where relevant). The approved landscaping works/biodiversity enhancements shall be carried out in accordance with the approved details and in accordance with the agreed implementation programme.

Reason: In the interests of maintaining a suitable scheme of landscaping/biodiversity enhancements to protect the visual amenity of the area, to maintain the special qualities of the landscape and habitats through the protection, creation and enhancement of links between sites and their protection for amenity, landscape and biodiversity value, and to ensure the development complies with Policies SP2 and ENV5 of the Bridgend Local Development Plan (2006-2021).

3. Within 3 months of the date of this consent, a landscape management plan, including the long-term design objectives, management responsibilities and maintenance schedules, for all landscaped areas, hedgerows and details of grass cuttings/brush storage, shall be submitted to the Local Planning Authority. The approved landscape management plan shall be implemented and adhered to in accordance with the approved details thereafter in perpetuity.

Reason: In the interest of visual amenity, biodiversity enhancements, and to ensure the long-term management and maintenance of all landscaped areas within the site and to

ensure the development complies with policies SP2 and ENV5 of the Bridgend Local Development Plan (2006-2021).

4. Prior to the first beneficial use of the development, bat boxes shall be erected within the site. These shall be hung on mature trees in the block of trees to the south, on the mature trees adjacent to the residential back gardens on the northern boundary and on buildings which face open habitat with clear flight paths. The following boxes shall be erected:
  - Schwegler 2F – a minimum of 2 of these boxes (or similar specification) shall be erected on site.
  - Schwegler 1FD – This box is a larger version of the 2F. a minimum of 2 of these boxes or similar specification shall be erected on site.
  - Schwegler 1FW – This box is suitable for maternity or hibernation roosts. One of these boxes (or similar specification) shall be erected on siteAll boxes shall be retained in perpetuity.

Reason: In the interest of Biodiversity enhancements and to accord with Policy SP2 and ENV5 of the Bridgend Local Development Plan (2006-2021).

5. The floodlighting hereby permitted shall only be illuminated between the following times:
  - Weekdays 09:00-21:00
  - Saturdays 09:00-17:00
  - Sundays & Bank Holidays 10:00-15:00

Reason: In the interests of residential amenity and biodiversity and to accord with Policy SP2 and ENV5 of the Bridgend Local Development Plan (2006-2021).

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

Reason: In the interests of highway safety and to accord with Policies PLA1 and SP2 of the Bridgend Local Development Plan (2006-2021).

7. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment and to ensure compliance with Policy SP2 and ENV7 of the Bridgend Local Development Plan (2006-2021).

8. \* THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS

A) The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises Future Wales - the National Plan 2040 and the Bridgend Local Development Plan (2013)

The concerns raised by neighbouring residents have been noted and taken into consideration. The proposal represents an appropriate form of development that would have no unacceptable impact on visual amenity residential amenity, or highway and pedestrian safety, drainage and ecology and the proposal is therefore recommended for approval. Accordingly, the proposed development is in accordance with Policies SP1, SP2, SP3, SP4, SP13 PLA1, ENV5, ENV7 and COM11 of the Bridgend Local

Development Plan (2013)

It is further considered that the decision complies with Future Wales - the National Plan 2040, and the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

**B) DRAINAGE ADVISORY NOTE**

No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

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

**JANINE NIGHTINGALE  
CORPORATE DIRECTOR COMMUNITIES**

**Background Papers**

None.

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## APPEALS

**The following appeal has been received since my last report to Committee:**

<b>APPEAL NO.</b>	CAS-02309-B6J3Q8 (1974)
<b>APPLICATION NO.</b>	P/22/81/OUT
<b>APPELLANT</b>	MR J DAVIES
<b>SUBJECT OF APPEAL</b>	DETACHED DWELLING ON LAND TO SIDE: SOUTHLANDS FUNERAL HOME 59 SOUTH ROAD PORTHCAWL
<b>PROCEDURE</b>	WRITTEN REPRESENTATIONS
<b>DECISION LEVEL</b>	DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposed dwelling, by reason of its proposed scale parameters, location and indicative siting, represents an insensitive and excessive form of development that would result in the inappropriate development of the site to the detriment of the character and appearance of the existing locality. The application is therefore contrary to policy SP2 of the Bridgend Local Development Plan (2013), advice contained within Technical Advice Note (TAN) 12: Design (2016), and Planning Policy Wales, Edition 11 (February, 2021).
2. The proposed dwelling, by reason of its proposed scale parameters, location and siting, would have an imposing, overbearing and unneighbourly impact on the outlook and existing standards of amenity enjoyed by occupiers within the host dwelling (59 South Road). The application is therefore contrary to policy SP2 of the Bridgend Local Development Plan (2013), advice contained within Technical Advice Note (TAN) 12: Design (2016), SPG 02 Householder Development (2008) and Planning Policy Wales, Edition 11 (February, 2021).
3. The proposed access and narrow vehicular access point onto South Road lacks adequate visibility to serve the proposed development and is not suitable to serve the proposed development and would consequently create traffic hazards to the detriment of highway safety contrary to policy SP2 of the Bridgend Local Development Plan (2013), and guidance contained within Planning Policy Wales (Edition 11, February 2021).
4. The intensification of the substandard access in close proximity to the nearby narrow road close to a bend would create hazards and generate vehicular turning movements, to and from the public highway, to the detriment of highway safety, contrary to policy SP2 of the Bridgend Local Development Plan (2013), and guidance contained within Planning Policy Wales (Edition 11, February 2021).

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

<b>APPEAL NO.</b>	CAS-02104-Z1X1Y3 (1966)
<b>ENFORCEMENT NO.</b>	ENF/392/21/ACK
<b>APPELLANT</b>	MR WAYNE ISAAC

**SUBJECT OF APPEAL** ALLEGED UNAUTHORISED LOG CABIN FOR MIXED USE OF HOLIDAY LET AND PRIVATE USE NANTMWTH FACH FARM, SHWT

**PROCEDURE** WRITTEN REPRESENTATIONS

**DECISION LEVEL** ENFORCEMENT NOTICE

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

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

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**APPEAL NO.** CAS-02105-X9F1N2 (1967)  
**ENFORCEMENT NO.** ENF/392/21/ACK

**APPELLANT** MR WAYNE ISAAC

**SUBJECT OF APPEAL** UNAUTHORISED TIMBER CABIN - MATERIAL CHANGE OF USE NANTMWTH FACH FARM, SHWT

**PROCEDURE** WRITTEN REPRESENTATIONS

**DECISION LEVEL** ENFORCEMENT NOTICE

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

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

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**APPEAL NO.** CAS-02106-M5G1L1 (1968)  
**APPLICATION NO.** P/21/472/FUL

**APPELLANT** MR WAYNE ISAAC

**SUBJECT OF APPEAL** RETENTION OF LOG CABIN FOR USE AS A HOLIDAY LET FOR TOURISM PURPOSES AND THE CONSTRUCTION OF A PROPOSED ADJACENT TOILET AND SHOWER BLOCK NANTMWTH FACH FARM, SHWT

**PROCEDURE** WRITTEN REPRESENTATIONS

**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 joint appeal decision is attached as **APPENDIX A**

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**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

**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 joint appeal decision is attached as **APPENDIX B**

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**RECOMMENDATION**

That the report of the Corporate Director Communities be noted.

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

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



## Appeal Decision

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By **A L McCooey BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Decision date: 10.05.2023

Site address: land at Nantmwrth Fach, Farm, Shwt, Bridgend, CF32 8UW

A site visit was made by the Inspector on 11 April 2023.

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Appeal references: CAS-02105-X9F1N2 & CAS-02104-Z1X1Y3

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991. The appeals are made by Mr Wayne Isaac against enforcement notices issued by Bridgend County Borough Council.
  - Enforcement notice A (02105), numbered ENF/392/21/ACK, was issued on 29 June 2022.
  - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a timber cabin.
  - The requirement of the notice is to remove the timber cabin, the approximate position of which is shown edged blue on the attached plan from the land affected.
  - Enforcement notice B (02104), also numbered ENF/392/21/ACK, was issued on 29 June 2022.
  - The breach of planning control as alleged in the notice is: Without planning permission, change of use of the said land from agricultural by the siting of a log cabin for the purposes of tourism.
  - The requirements of the notice are to cease the use of the land for the purposes of tourism and remove the timber cabin, the approximate position of which is shown edged blue on the attached plan from the land affected.
  - The period for compliance with the requirements is 3 months after the notices take effect.
  - The appeals are proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.
- 

Appeal reference: CAS-02106-M5G1L1

- 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 Wayne Isaac against the decision of Bridgend CB Council.
  - The application Ref P/21/472/FUL, dated 18 May 2021, was refused by notice dated 27 April 2022.
  - The development proposed is Retention of log cabin for use as a holiday let for tourism purposes, and the construction of a proposed adjacent toilet and shower block.
-

## **Decisions**

### **Appeal against Enforcement notice A (CAS-02105)**

1. Section 5 of the Enforcement notice is corrected by the deletion of the following ‘, the approximate position of which is shown edged blue on the attached plan’ from the requirement. Subject to this correction the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### **Enforcement notice B (CAS-02104)**

2. The breach of planning control as alleged in the notice is corrected to: Without planning permission, change of use of the said land from agricultural use to a mixed use of agriculture and tourism use by the siting of a log cabin for the purposes of tourism. Section 5 of the Enforcement notice is corrected by the deletion of the following ‘, the approximate position of which is shown edged blue on the attached plan’ from the requirement. Subject to these corrections the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### **Appeal against the refusal of planning permission (CAS-02106)**

3. The appeal is dismissed.

## **Procedural Matters**

4. Enforcement notice B (CAS-02104) refers to a change of use as described above. As the parties indicate that the land is in use for agriculture the description of the breach of planning control should be corrected to refer to the mixed use of the area encompassed within the EN. The breach of planning control shall be corrected to: Without planning permission, change of use of the said land from agricultural use to a mixed use of agriculture and tourism use by the siting of a log cabin for the purposes of tourism.
5. The requirements of the notices refer to the approximate position of the timber cabin being shown edged blue on the attached plan. The location of the timber cabin is not within the area edged blue. It is some distance away near the pond as indicated in the plans for the planning application Ref P/21/472/FUL. As the appellant and Local Planning Authority are aware of the correct position, I shall delete these words from the requirements of the notices. I am satisfied that there will be no prejudice to the parties as a result of these corrections.
6. The Council has confirmed that the description of the proposal on the planning application was amended by the Agent several months after submission. This was because there had been a reference to private use by the applicant and his family, which would be unacceptable in policy terms. I have adopted the above description as agreed between the appellant and the Local Planning Authority.
7. The toilet block as shown in the planning application has not been constructed. In these circumstances the toilet block is not referred to in the breaches of planning control in the enforcement notices (ENs). If constructed it would only be required to serve the log cabin. I shall therefore consider the section 78 and appeals on ground (a) together as the issues raised are unaffected.

## Reasons

### The appeals on ground (a) and the section 78 appeal - Main Issues

8. The reasons for refusal and for issuing the ENs refer to the following issues:
- The siting and design of the proposal and its visual impact on the character and appearance of the countryside, with reference to Policies ENV1 and SP2 of the Bridgend Local Development Plan 2006-2021 (the LDP).
  - Whether the proposal would constitute a sustainable form of development in terms of accessibility by a range of different transport modes, with reference to Policies SP2 and SP3 of the LDP.
  - The impact on highway safety of the use of a narrow lane to access the proposal, also with reference to Policies SP2 and SP3.
9. The farm comprises 3.75 hectares of land with a farmhouse and an associated range of farm buildings. Access is via the lane leading to the farm, off an unnamed adopted highway, leading from the A4063. The log cabin is of modular construction, sited on a stone base, with stained and treated natural timber walls and a grey/black felt shingle roof. It is up to 3.9m high and has a floor area of 26m<sup>2</sup>. The log cabin is sited some distance to the south of the farm buildings in an elevated position above a pond. The appellant states that the building was erected as a tourism holiday let during the Covid lockdown period, without the necessary planning permission.

#### *Impact of the development on the character and appearance of the countryside*

10. The site is located in the open countryside where Planning Policy Wales and LDP Policy ENV1 provide for strict controls on development. One of the exceptions to these controls relates to farm diversification and tourism projects. The Local Planning Authority considered this type of farm diversification project in the countryside to potentially be acceptable in principle. The principle was judged to be in compliance with the relevant tests in Policies ENV1, SP11 and REG12 of the LDP. However, the detail of the proposal remains to be considered under criteria 1 and 4 of Policy REG12. This assessment could also then affect its acceptability under Policies ENV1 and SP2. I shall consider the proposal against this policy context.
11. The cabin is in an elevated location overlooking a pond. It is removed from the farm buildings and the dwelling by some distance. The Ogwr Ridgeway public footpath route runs along the site. The cabin is visible from this route, which is referred to in the appellant's Planning Statement. I consider that the location, siting and design of the proposal represents an incongruous feature in this area of countryside. Painting the proposal a different colour would not alter this assessment. The development and proposed toilet block would be detrimental to the character and appearance of the countryside contrary to Policy REG12 and SP2. For this reason it would also be contrary to Policy ENV1.

#### *Highway safety and accessibility by a range of different transport modes*

12. The Council argue that the proposal would not constitute a sustainable form of development in terms of accessibility by a range of different transport modes contrary to advice in Planning Policy Wales and LDP Policy. This does not sit well with the acceptance of the proposal in principle as stated above. In common with many tourism developments in the countryside, the site is likely to be primarily accessed by car. This site is not remote and is close to a main road and bus route. There would be an alternative pedestrian access from the site to the main road via the Ogwr Ridgeway public footpath. I do not agree that as there no dedicated footways for pedestrians along

the road there would be no opportunity to access public transport and bus stops on the A4063. Customers would have a choice to use the lane and road or the public footpath. The distances to bus stops referred to by the Council are in an urban context and do not take account of the leisure use proposed where time is not so much of an issue. I do not therefore consider that the proposal, when considered in the round, would be contrary to Planning Policy Wales and Policies SP2 and SP3 for this reason.

13. The access to the site from the A4063 is a country road leading to Greenfield Terrace in Shwt to the north. This road is narrow with poor alignment and limited passing places. Traffic must also use a narrow railway bridge with poor visibility and passing facilities. There are no pedestrian footways. The proposal would lead to an increase in vehicular and pedestrian traffic using this route who are unfamiliar with the area. The use by pedestrians would be hazardous. Increased vehicular traffic has the potential to lead to reversing movements and traffic accidents. For these reasons I conclude that the increase in traffic on this road would be detrimental to highway safety. The development is therefore contrary to Policies SP2 and SP3.

### **The appeals on ground (f) and Conditions**

14. The appellant has suggested that a condition to allow a temporary consent for 2 years would be appropriate. This would allow the Local Planning Authority to assess the impact of the development and if necessary refuse planning permission thereafter. The appellant considers that the requirements of the notices are excessive and unreasonable. Presumably on the basis that the building could be retained for another use.
15. I have found that the development is unacceptable in this location for the reasons given above and that the use of the adjoining road to access the site would lead to highway safety issues. In these circumstances, a temporary planning permission for the retention of the building would not be appropriate.

### **Other Matter**

16. I note that the impacts on ecology, biodiversity and drainage were assessed by the Local Planning Authority. I have considered these issues and agree that any impacts would not be significant.

### **Conclusion**

17. For the reasons given above and having considered all relevant matters, the appeals against the notices on ground (a) and against the refusal of planning permission are dismissed. I also conclude that the appeals on ground (f) should fail for the reasons given.
18. 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 one or more of the Welsh Ministers' well-being objectives.

*A L McCooey*

*INSPECTOR*



## Appeal Decision

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by I Stevens BA (Hons) MCD MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 15/05/2023

Appeal reference: CAS-02592-K3Y2Z3

Site address: 11 Rest Bay Close, Nottage, Porthcawl, CF36 3UN

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- 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 Nigel Evans against the decision of Bridgend County Borough Council.
  - The application Ref P/22/755/FUL, dated 1 November 2022, was refused by notice dated 17 February 2023.
  - The development proposed is the construction of a rooftop extension.
  - A site visit was made on 25 April 2023.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the construction of a rooftop extension at 11 Rest Bay Close, Nottage, Porthcawl, CF36 3UN, in accordance with the terms of the application, Ref P/22/755/FUL, dated 1 November 2022, subject to the conditions set out in the schedule to this decision letter.

### Procedural Matter

2. The Council refers in its decision notice to the Supplementary Planning Guidance (SPG) 02 – Householder Development, adopted in December 2008. The SPG predates adoption of the current Bridgend Local Development Plan (LDP) in September 2013. Nevertheless, its guidance broadly aligns with the objectives of national planning policy and the LDP. I have therefore had regard to it in my decision.

### Main Issues

3. The main issues are the effect of the proposed development on:
  - the character and appearance of 11 Rest Bay Close and the surrounding area; and
  - the living conditions of the occupiers of 12 Rest Bay Close with regard to privacy.

### Reasons

*Character and appearance*



4. The appeal site comprises a semi-detached two-storey dwelling in a residential cul-de-sac. The appeal dwelling is located along a row of mostly detached properties where the spacious plots and open coastal views contribute to the pleasant character of the area. The appeal dwelling and its adjoining neighbour were originally one property, but a planning permission to subdivide the property in two has been implemented. In visual terms, the two dwellings can still be read as one building as they share similar characteristics including flat roof elements, box-like protrusions, large windows of similar styles, and a shared materials palette. The building height varies, with the adjoining dwelling having a third floor.
5. Overall, the design features create a distinctive building in the street scene. Its design differs from other properties along Rest Bay Close, particularly with its flat roof and box-like elements. However, nearby dwellings vary in their details and heights, with evidence from the appellant pointing to altered designs and a range of two and three-storey properties near to the appeal property.
6. The proposed rooftop extension would create a third floor with its position set in from the side of the first-floor level, which itself is set in from the side of the ground-floor level. The reduced massing compared with ground and first-floor levels would be a proportionate design response to the scale of the appeal dwelling and its neighbour. It would continue the box-like proportions of the building and appear as another layer, where the visual emphasis is on the width of the appeal dwelling. The proposal would rise above the adjoining property's roof ridge as the appeal dwelling is set at a slightly higher level than its neighbour. However, the height difference would be minimised to about 1.2m, such that it would not appear significantly taller or stand out as a dominant addition to the property.
7. By taking its design cues from the existing dwelling, the rooftop extension would be a complementary addition. The continuous floor to ceiling glazing on two sides would not appear excessive in the context of the wider property where windows are typically large and closely arranged. The window designs would match and align with those on lower levels of the appeal dwelling, thereby respecting the existing arrangements.
8. In the surrounding context, the bespoke design of the building affords it a uniqueness in the street scene. Nevertheless, the proposal would not be unduly large and would not conflict with the wider area character given the varied dwelling designs and heights, including the presence of some three-storey properties further along Rest Bay Close. The additional glazing along the rear elevation would not be out of character given the presence of other structures including the glazed apex at neighbouring no. 12, and the glazed balcony at the Rest Bay water sports centre, further north of the appeal site.
9. I note that to the west of the appeal site, the open land leading towards the coastline forms part of the Porthcawl Coast Special Landscape Area (SLA). I have not been provided with any details of the special features and characteristics of the SLA. While the Council considers that the proposal would be highly visible when viewed from the SLA and appear incongruous in the surrounding landscape, the appeal site is viewed in the context of other development. I am satisfied that the contemporary design and use of similar materials to the appeal dwelling would ensure that the proposal harmonises with the building.
10. I therefore conclude that the proposed extension would not harm the character or appearance of 11 Rest Bay Close or the surrounding area, and it would comply with the design and sustainable placemaking objectives of Strategic Policy SP2 in the Bridgend LDP. Given my findings that the proposal would be in scale with and harmonise with the existing form, materials and details of the appeal dwelling, it would comply with advice contained in the Householder Development SPG.

*Living conditions*

11. The proposed extension would have full-length glazing along its rear elevation and the side elevation facing no. 12 Rest Bay Close. The Council is concerned that the extension would result in a feeling of being overlooked from the garden of no. 12, resulting in an unacceptable loss of privacy to occupiers of the adjacent property.
12. While I note those concerns, there are already views of no. 12's rear garden from the rear first-floor windows and balcony. During my site visit, I stood on the balcony and had uninterrupted views of most of the rear garden at no. 12. While the existing stone wall boundary provides screening between both rear gardens, due to the large plot sizes and uniform building line, the existing arrangements provide an opportunity for occupiers of the appeal property to look directly into no. 12's rear garden. Consequently, there is already a high degree of overlooking into the neighbouring property.
13. I also viewed the appeal property from within the rear garden of no. 12. While it was not possible to look over into the neighbouring garden due to the wall height and presence of some vegetation, the balcony was in direct view. I also observed that no. 12 has a first-floor balcony, which is slightly lower than the balcony on the appeal dwelling. The presence of balconies on this and other properties indicates an existing degree of intervisibility between rear outdoor spaces.
14. The proposed rooftop extension would be set in from the ground and first-floor side elevation of the appeal dwelling. It would not protrude out from the existing rear elevation, unlike the balcony. I recognise that the height and position of the windows would afford some views of the rear garden at no. 12. However, in the circumstances I have described, the additional windows on the rear elevation would not materially change the existing levels of overlooking across no. 12's garden.
15. On the side elevation facing no. 12, the proposed full-length glazing would be a new feature on this side of the property. The windows would be set in approximately 8m from the side boundary with no. 12 and would face out onto the flat roof of the first floor of the appeal dwelling. Given the setback from the property edge, the extension would not face down onto the side of no. 12, and would instead look over and beyond its roofs, with partial distant views of the front elevation of other dwellings facing into Rest Bay Close. Due to the position of the proposed extension, I am satisfied that the additional glazing would not materially alter the existing levels of overlooking between the appeal property and the rear garden of no. 12.
16. The Council quotes advice in the Householder Development SPG, that extensions should respect the privacy of neighbouring houses. I am conscious that the guidance should be applied to the circumstances of each case, where in this instance existing privacy standards for rear gardens are not very high. Indeed, the SPG advises in its introduction that its guidance is not a rulebook and that circumstances will always be important.
17. I therefore conclude that the proposal would not cause significant harm to the living conditions of occupants at no. 12 Rest Bay Close with regard to privacy. It would therefore comply with the amenity criteria in Policy SP12 of the Bridgend LDP and comply with the objectives of the Householder Development SPG.

**Conditions**

18. I have considered the conditions recommended by the Council in the light of advice in Welsh Government Circular 016/2014 'The Use of Planning Conditions for Development Management'. In addition to the standard conditions, I agree that a biodiversity enhancement condition is necessary as set out in national and local planning policy.

given my findings on privacy, it has not been necessary to consider any conditions requiring obscure glazing.

**Conclusion**

19. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed.
20. 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 one or more of the Welsh Ministers' well-being objectives.

*I Stevens*

INSPECTOR

## SCHEDULE OF CONDITIONS

1) The development shall begin not later than five years from the date of this decision.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 / Section 18 of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990.

2) The development shall be carried out in accordance with the following approved plans and documents:

- Location Plan, Date 01 11 2022, Drawing Number: 1630:PL2 01
- Proposed Roof Extension Plan, Date 01 11 2022, Drawing Number: 1630-PL2-07
- Proposed Elevations (Sheet 1), Date 01 11 2022, Drawing Number: 1630:PL2 08
- Proposed Elevations (Sheet 2), Date 01 11 2022, Drawing Number: 1630:PL2 09

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

3) No development shall take place 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: In the interests of maintaining and enhancing biodiversity, in accordance with Future Wales Policy 9.

<b>Meeting of:</b>	<b>DEVELOPMENT CONTROL COMMITTEE</b>
<b>Date of Meeting:</b>	<b>15 JUNE 2023</b>
<b>Report Title:</b>	<b>LISTED BUILDING CONSENT DELEGATION</b>
<b>Report Owner / Corporate Director:</b>	<b>CORPORATE DIRECTOR COMMUNITIES</b>
<b>Responsible Officer:</b>	<b>CLAIRE HAMM TEAM LEADER CONSERVATION AND DESIGN</b>
<b>Policy Framework and Procedure Rules:</b>	In order to proceed with this offer of Listed Building Consent Delegation amendments to the Council's scheme of delegation will be required via this Committee.
<b>Executive Summary:</b>	<b>Further to the award of Listed Building Consent Delegation by Cadw from 1 February 2023, a further report was presented to Council on 8 February 2023 and the necessary changes to the constitution were agreed. Amendments required to the current scheme of officer delegation which has been adopted by the Development Control Committee as part of the Planning Code of Practice are contained in this report.</b>

## 1. Purpose of Report

- 1.1 The purpose of this report is to approve the changes to the Planning Code of Practice (PCP) necessary for Council Officers to proceed with the determination of applications for listed building consent for Grade II buildings without the need for referral to Welsh Ministers.

## 2. Background

- 2.1 Following agreement by the Development Control Committee on 3 March 2022, Bridgend County Borough Council's Conservation and Design Team applied to Cadw for Listed Building Consent delegation to allow the Council to determine all grade II listed building consent applications made to the Council without the need to refer any such applications to CADW (with the exception of applications for total demolition).
- 2.2 At a subsequent meeting of Development Control Committee on 9 January 2023 Members of the Development Control Committee were advised that notification had been received from Cadw that it was minded to grant Listed Building Consent Delegation subject to acceptance of a number of requirements. The requirements

are set out in full in the report to the Development Control Committee meeting on 9 January, a copy of which is attached as **Appendix A**. The report included a recommendation that the report be referred to Council for agreement to amend the Constitution as described in paragraph 4.4 of the report along with any other necessary amendments.

- 2.3 On 17 January 2023 the Council received confirmation from Cadw of its intention to award delegation from 1 February 2023 in the form of a signed Direction, a copy of which is attached as Appendix B (“the Direction”).
- 2.4 A further report was presented to Council on 8 February 2023 and the necessary changes to the constitution were agreed. As part of that report Council were informed that any amendments required to the current scheme of officer delegation which has been adopted by the Development Control Committee as part of the PCP would be reported to the Development Control Committee for their decision.

### **3. Current situation / proposal**

- 3.1 The existing Scheme of officer delegation is in the PCP (attached as **Appendix C**) and includes powers for Officers, where appropriate, to determine applications for Listed Building Consent subject to the requirement to notify Welsh Ministers in line with Section 13 of the Act. The PCC will require a change to allow Officers to determine applications for Listed Building Consent for Grade II buildings without the need for referral to Welsh Ministers, on any application for Listed Building Consent, if officers have received and adhered to the advice of the Senior Conservation and Design Officer, Moira Lucas.
- 3.2 Section 5 of the Direction in **Appendix B** identifies situations where Section 13 of the 1990 Act will continue to apply to applications submitted to Bridgend County Borough Council for listed building consent and the scheme of officer delegation needs to refer to these exceptions.
- 3.3 The suggested amendment would be to Schedule 1 of the PCP. A new heading should be added to Schedule 1 as follows:- “Listed Building Consent Delegation”. Under that heading the following paragraphs should be inserted:-
- “ . To determine applications for Listed Building Consent without having to comply with Section 13 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Act”) for applications for listed building consent for the carrying out of work affecting the exterior or interior of a grade II (unstarred) listed building but with the following restrictions-
- Section 13 of the 1990 Act will continue to apply to applications submitted to the Council for listed building consent:
- i. which involve demolition.

- ii. which the Council is required to submit to the Welsh Ministers in accordance with regulation 9 of the Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (S.I. 2012/793);
- iii. relating to works affecting the exterior of grade II (unstarred) listed buildings, where the Council wishes to grant consent contrary to the advice or without receiving advice from Ms Moira Lucas the Named Building Conservation Area Officer; or
- iv. which affects either the interior or exterior of a Grade I or II (starred) listed building.

#### **4. Equality implications (including Socio-economic Duty and Welsh Language)**

4.1 The protected characteristics identified within the Equality Act, Socio-economic Duty and the impact on the use of the Welsh Language have been considered in the preparation of this report. As a public body in Wales the Council must consider the impact of strategic decisions, such as the development or the review of policies, strategies, services and functions. It is considered that there will be no significant or unacceptable equality impacts as a result of this report.

#### **5. Well-being of Future Generations implications and connection to Corporate Well-being Objectives**

5.1 Listed Building Consent Delegation forms part of the Statutory Planning Service and will be progressed in line with the 7 Well-being goals and the 5 ways of working as identified in the Act.

5.2 This report assists in the achievement of the following corporate well-being objective under the **Well-being of Future Generations (Wales) Act 2015:-**

**Smarter use of resources** – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council’s well-being objectives.

#### **6. Climate Change Implications**

6.1 The repair and reuse of historic buildings and timely determination of listed building consent applications will make a positive contribution towards helping to help protect and sustain the environment over the long term .

#### **7. Safeguarding and Corporate Parent Implications**

7.1 Listed Building Consent Delegation and the proposed amendment to the PCP contained in this report and will have no impact on the Council’s duty contained in its safeguarding policy.

## **8. Financial Implications**

- 8.1 Funding is in place to support the Senior Conservation and Design Officer, the named officer, within the Communities Directorate until December 2023. Funding from within existing Directorate budgets will be sought to maintain the dedicated staff arrangements beyond this date to deal with listing building consent applications, their subsequent monitoring of proposals on site and enforcement. There is also an intention to submit a budget pressure bid as part of the 2024-25 Medium Term Financial Strategy to support this function.

## **9. Recommendation(s)**

- 9.1 It is recommended that Development Control Committee :-

Approve the proposed changes outlined in para 3.3 of this report to the Planning Code of Practice .

## **Background documents**

None.



**BRIDGEND COUNTY BOROUGH COUNCIL**  
**REPORT TO DEVELOPMENT CONTROL COMMITTEE**  
**5 JANUARY 2023**  
**REPORT OF THE CORPORATE DIRECTOR COMMUNITIES**  
**LISTED BUILDING CONSENT DELEGATION**

**1. Purpose of report**

- 1.1 The purpose of this report is to update Members of the Development Control Committee on Bridgend County Borough Council's application for Listed Building Consent Delegation in terms of feedback from Cadw and next steps.

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

- 2.1 This report assists in the achievement of the following corporate well-being objective under the **Well-being of Future Generations (Wales) Act 2015**:-

**Smarter use of resources** – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

- 2.2 The Council has statutory duties in relation to the determination of Listed Building Consent applications as part of its Planning Service.

**3. Background**

- 3.1 Members are reminded that under Section 13 of the Planning (Listed Buildings and Conservation Areas) Act 1990 local planning authorities are required to notify Welsh Ministers (via Cadw) where they are minded to grant listed building consent (LBC). However, wherever possible, Welsh Ministers are keen for LBC decisions to be taken at a local level and they are able to amend the requirement to notify Cadw. For example Welsh Ministers are able to direct that certain categories of applications for LBC need not be notified to them by a local planning authority. There is currently a general direction in place removing the requirement to notify Cadw of an application for LBC for work affecting the interior only of a grade II (unstarred) listed building.
- 3.2 Following agreement by the Development Control Committee on 3 March 2022, Bridgend County Borough Council's Conservation and Design Team applied to Cadw to extend these arrangements to include all grade II listed buildings (with the

exception of applications for total demolition). In shorthand, we call these extended arrangements Listed Building Consent delegation.

#### **4. Current situation/proposal**

- 4.1 On 15 December 2022 Cadw wrote to Officers to confirm that it is minded to award delegation to the named Officer as specified in the application ( Senior Conservation and Design Officer Mrs Moira Lucas) based on the application and record of experience submitted. This award is subject to this Authority providing the following;
- (i) a corporate commitment to seek and adhere to the advice of the named officer on applications for listed building consent, and
  - (ii) where the advice of the named officer is not available, or the application is proposed to be approved against the advice of the named officer, Cadw will be notified in order to consider call-in.
- 4.2 Members are reminded that the removal of the requirement to notify Cadw takes out a time-consuming and resource intensive part of the Listed Building Consent cycle for both Cadw and the local planning authority. It strengthens local decision-making, makes it timely and efficient, and improves the service available to the public.
- 4.3 If agreed and accepted this delegation will apply to all Grade II Listed buildings within the County Borough (331 of the 375 listed buildings within the County Borough, including those Grade II Listed Buildings within the ownership of Bridgend County Borough Council). The notification process will continue to apply to any application which involves the demolition of a listed building or works to grade I or II\* listed buildings. The feedback from Cadw confirms that in its opinion the right expertise and processes are in place within this Authority to make robust and sound decisions which protect and preserve the historic environment. Listed Building Consent Delegation is given to local authorities that have a robust local policy framework supported by sound processes, practices and decision making informed by specialist conservation officer advice aimed towards the conservation and protection of the historic environment. Cadw will maintain a close working relationship with this authority if it accepts delegation through an annual review process and can continue to provide advice and guidance at the request of the conservation officer.
- 4.4 The Development Control Committee currently has delegated to it by Council the power to discharge the Council's functions under the Planning(Listed Buildings and Conservation Areas) Act 1990 which are detailed in the Constitution. The delegated power includes the power to determine application for Listed Building Consent but subject to the requirement to notify Welsh Ministers in line with Section 13 of the Act as mentioned in Paragraph 3.1 of this report. If members agree to accept the recommendations in this Report the Constitution will require a change to the delegation to add that the Committee can approve applications for Listed Building Consent without the need for referral to Welsh Ministers if it has on any application

for Listed Building Consent received and adhered to the advice of the Senior Conservation and Design Officer Moira Lucas.

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

- 5.1 If this Authority agrees to accept this offer of Listed Building Consent Delegation amendments to the Council's scheme of delegation will be required via full Council approval.

## **6. Equality Act 2010 implications**

- 6.1 The protected characteristics identified within the Equality Act, Socio-economic Duty and the impact on the use of the Welsh Language have been considered in the preparation of this report. As a public body in Wales the Council must consider the impact of strategic decisions, such as the development or the review of policies, strategies, services and functions. It is considered that there will be no significant or unacceptable equality impacts as a result of this report.

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

- 7.1 Listed Building Consent Delegation forms part of the Statutory Planning Service and will be progressed in line with the 7 Well-being goals and the 5 ways of working as identified in the Act.

## **8. Financial implications**

- 8.1 Funding is in place to support the Senior Conservation and Design Officer, the named officer, within the Communities Directorate until December 2023. If delegation is accepted external funding opportunities will be sought to maintain the dedicated staff arrangements beyond this date to deal with listing building consent applications, their subsequent monitoring of proposals on site and enforcement. . If external funding opportunities cannot be sourced, there is an intention to submit a budget pressure bid as part of the 2024-25 Medium Term Financial Strategy to support this function. If the budget pressure is unsuccessful, the Directorate will have to identify internal budgets.

## **9. Recommendations**

- 9.1 It is recommended that the Development Control Committee:-
- agree a commitment to seek and adhere to the advice of the named officer (Senior Officer Conservation and Design Mrs Moira Lucas) on applications for listed building consent

- agree that where the advice of the named officer is not available, or the application is proposed to be approved against the advice of the named officer, Cadw will be notified in order to consider call-in
- accept the offer from CADW of Listed Building Consent Delegation on all Grade II Listed Buildings
- agree that this report be referred to Council for agreement to amend the Constitution as described in paragraph 4.4 of this report along with any other necessary amendments

**Janine Nightingale**

**CORPORATE DIRECTOR COMMUNITIES**

5<sup>th</sup> January 2023

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Team Leader Conservation and Design

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**Background documents:**

None

## Cyfarwyddyd i Gyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr mewn Perthynas â'r Gofyniad i Hysbysu Gweinidogion Cymru am Geisiadau am Gydsyniad Adeilad Rhestredig

1. Mae adran 13 o Ddeddf Cynllunio (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1990 ("y Ddeddf") yn ei gwneud yn ofynnol, os yw awdurdod cynllunio lleol y gwneir cais am gydsyniad adeilad rhestredig iddo yn bwriadu rhoi cydsyniad, bod rhaid iddo hysbysu Gweinidogion Cymru am y cais yn gyntaf. Yna caiff Gweinidogion Cymru arfer eu pŵer o dan adran 12 o'r Ddeddf i alw'r cais i mewn i benderfynu arno, neu cânt roi hysbysiad i'r awdurdod cynllunio lleol bod angen rhagor o amser arnynt i ystyried y cyfeiriad, neu gallant hysbysu'r awdurdod nad yw Gweinidogion Cymru yn bwriadu arfer eu pŵer galw i mewn.
2. Mae adran 15(1) o'r Ddeddf yn grymuso Gweinidogion Cymru i gyfarwyddo nad oes angen rhoi hysbysiad o'r fath mewn perthynas â disgrifiadau penodol o geisiadau ac mae adran 15(6) o'r Ddeddf yn grymuso Gweinidogion Cymru i arfer y pŵer hwnnw mewn perthynas ag awdurdodau cynllunio lleol yn gyffredinol neu awdurdodau cynllunio lleol penodol neu ddisgrifiadau o awdurdodau.
3. I'r graddau y mae'r canlynol yn berthnasol i Gyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr, o ddyddiad y Cyfarwyddyd hwn:
  - a. mae'r Cyfarwyddyd o'r enw "[Cyfarwyddyd Geisiadau Cydsyniad Adeilad Rhestredig \(Datgymhwysu Dyletswydd i Hysbysu Gweinidogion Cymru\) \(Cymru\) 2017](#)" sydd wedi'i gynnwys yn Atodiad A o lythyr Cadw dyddiedig 2 Mai 2017 yn cael ei ddirymu; a
  - b. mae'r Cyfarwyddyd a nodir ym mharagraffau 4 a 5 isod yn cael effaith.
4. Yn ddarostyngedig i baragraff 5 isod, trosglwyddwyd Gweinidogion Cymru, wrth arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adran 15(1) a (6) o Ddeddf 1990, i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac sydd yn rhinwedd adran 162 o, a pharagraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 yn arferadwy bellach gan Weinidogion Cymru, drwy hyn yn cyfarwyddo nad yw adran 13 o Ddeddf 1990 yn gymwys i geisiadau a gyflwynir i Gyngor Penybont am gydsyniad adeilad rhestredig ar gyfer cyflawni gwaith sy'n effeithio ar du allan neu ar du mewn adeilad rhestredig gradd II (heb seren).
5. Bydd adran 13 o Ddeddf 1990 yn parhau i fod yn gymwys i geisiadau sy'n cael eu cyflwyno i Gyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr am gydsyniad adeilad rhestredig:
  - (i) sy'n cynnwys dymchwel. Yn y cyd-destun hwn, mae'r llysoedd wedi dyfarnu bod dymchwel yn golygu tynnu adeilad i lawr fel ei fod yn cael ei ddinistrio'n llwyr neu o leiaf i raddau sylweddol iawn (Shimizu (UK) Ltd v. Westminster Council (1997) 1 All E. R. 481);
  - (ii) y mae'n ofynnol i Gyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr ei gyflwyno i Weinidogion Cymru yn unol â rheoliad 9 o Reoliadau Cynllunio

(Adeiladau Rhestredig ac Ardaloedd Cadwraeth) (Cymru) 2012 (O.S. 2012/793);

- (iii) sy'n ymwneud â gwaith sy'n effeithio ar du allan adeiladau rhestredig gradd II (heb seren), lle mae Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr yn dymuno rhoi cydsyniad yn groes i gyngor Swyddog Cadwraeth Adeiladau a enwir neu lle, am ba bynnag reswm, ni fydd Swyddog Cadwraeth Adeiladau a enwir yn gallu cynnig cyngor ar y cais hwnnw. Y Swyddog Cadwraeth Adeiladau a enwir yw Ms Moira Lucas; neu
- (iv) sy'n effeithio naill ai ar du mewn neu ar du allan adeilad rhestredig Gradd I neu II (â seren).

6. Wedi'i lofnodi gan Matthew Coward, dan awdurdod Dirprwy Weinidog y Celfyddydau a Chwaraeon, a'r Prif Chwip, un o Weinidogion Cymru.

*Matthew Coward*

Dyddiad: 1 Chwefror 2023


## **Direction to Bridgend County Borough Council in Respect of the Requirement to Notify the Welsh Ministers of Applications for Listed Building Consent**

1. Section 13 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Act") requires, if a local planning authority to which application is made for listed building consent intend to grant consent, that they must firstly notify the Welsh Ministers of the application. The Welsh Ministers may then exercise their power under section 12 of the Act to call-in the application for determination, or they may give notice to the local planning authority that they need further time in which to consider the reference, or they may notify the authority that the Welsh Ministers do not intend to exercise their call-in power.
2. Section 15(1) of the Act empowers the Welsh Ministers to direct that such notification is not required in respect of certain descriptions of applications and Section 15(6) of the Act empowers the Welsh Ministers to exercise that power in relation to local planning authorities generally or to particular local planning authorities or descriptions of authorities.
3. Insofar as the following apply to Bridgend County Borough Council, from the date of this Direction:
  - a. the Direction entitled "[Listed Building Consent Applications \(Disapplication of Duty to Notify Welsh Ministers\) \(Wales\) Direction 2017](#)" included within Annex A of Cadw's letter dated 2 May 2017 is revoked; and
  - b. the Direction set out in paragraphs 4 and 5 below has effect.
4. Subject to paragraph 5 below, the Welsh Ministers, in exercise of the powers which were conferred on the Secretary of State by section 15(1) and (6) of the 1990 Act, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and which by virtue of section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 are now exercisable by the Welsh Ministers, hereby direct that section 13 of the 1990 Act does not apply to applications submitted to Bridgend County Borough Council for listed building consent for the carrying out of work affecting the exterior or interior of a grade II (unstarred) listed building.
5. Section 13 of the 1990 Act will continue to apply to applications submitted to Bridgend County Borough Council for listed building consent:
  - (v) which involve demolition. In this context, the courts have ruled that demolition amounts to pulling down a building so that it is destroyed completely or at least to a very significant extent (*Shimizu (UK) Ltd v. Westminster Council* (1997) 1 All E. R. 481);
  - (vi) which Bridgend County Borough Council is required to submit to the Welsh Ministers in accordance with regulation 9 of the Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (S.I. 2012/793);
  - (vii) relating to works affecting the exterior of grade II (unstarred) listed buildings, where Bridgend County Borough Council wishes to grant

consent contrary to the advice of a named Building Conservation Officer or where, for whatever reason, a named Building Conservation Officer will not be able to offer advice on that application. The named Building Conservation Officer is Ms Moira Lucas; or

(viii) which affects either the interior or exterior of a Grade I or II (starred) listed building.

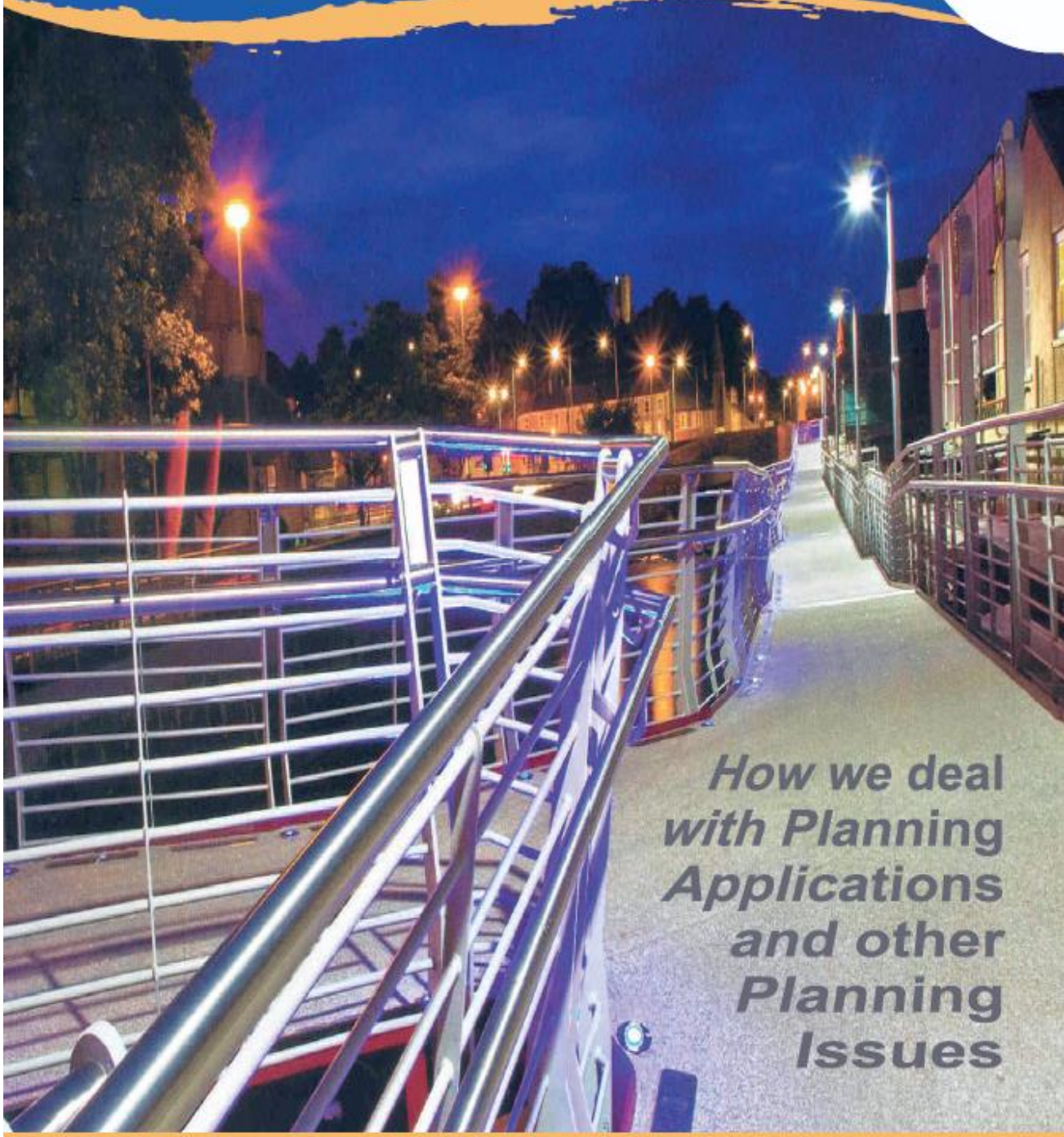
6. Signed by Matthew Coward under authority of the Deputy Minister for Arts & Sport and Chief Whip, one of the Welsh Ministers.

A handwritten signature in black ink that reads "Matthew Coward". The signature is written in a cursive, slightly slanted style.

Date: 1 February 2023



# Planning Code of Practice



*How we deal  
with Planning  
Applications  
and other  
Planning  
Issues*

**Bridgend County Borough Council**

Updated May 2022

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**This document is available in Welsh / Mae'r ddogfen hon ar gael yn Gymraeg**

## 1. INTRODUCTION

The Planning system involves taking decisions about the use and development of land in the wider public interest having regard to the Development Plan, national Planning Guidance and other material considerations. Planning can be highly contentious because its decisions affect the daily lives of individuals, landowners and developers.

In considering planning applications and reaching planning decisions the requirements of the individual, whether the applicant or a neighbour, have to be balanced against the broader public interest.

It is important that the process is open and transparent. The main aim of this Code of Practice is to ensure that planning decisions have been made in an unbiased, impartial basis and that all parties understand the process.

Members are advised to read all the guidance material provided by the Council (BCBC Website) including the Local Authorities (Model Code of Conduct) (Wales) Order 2008 (the Code of Conduct), the Planning Committee Protocol produced by the Welsh Local Government Association and the WG Development Management Manual [here](#)

In addition, the Planning Advisory Service (PAS) published '*Probity in Planning*' which clarifies how members can get involved in planning discussions on applications, on behalf of their communities in a fair, impartial and transparent way. Members must act in accordance with the provisions of the Code of Conduct at every stage of the planning process.

This Code of Practice provides guidance to elected Members, Officers, the general public, applicants and developers on the planning process.

The document will be updated on an annual basis or as and when new and relevant national regulations or guidelines emerge.

The document was last updated in may 2022 after the Development Control Committee agreed to changes in October 2021.

## **2. ROLE OF MEMBERS AND OFFICERS**

### **2.1 General**

#### **2.1.1 Differing Roles**

Councillors and Officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst Officers are responsible to the Council as a whole.

Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not individual Councillors, and Member's instructions may only be given to Officers through a decision of the Council, its Executive or a Council Committee.

#### **2.1.2 Relationship and Trust**

It is important that a good relationship exists between Councillors and Officers and that this is based on mutual trust and understanding of each other's positions. This relationship and trust must never be abused or compromised.

### **2.2 Role of Officers**

The Officer's function is to advise and assist Councillors in the formulation of planning policies in the determination of planning applications. Officers should:-

- Provide impartial and professional advice.
- Make sure that all the information necessary for the decision to be made is given.
- Provide a clear and accurate analysis of the issues.
- Set applications against the broader Development Plan policies and all other material considerations.
- Give a clear recommendation.
- Carry out the decisions made by Councillors in Committee or through the delegated authority of the Corporate Director Communities.
- Update Members on new legislation and guidance.

## **2.3 Role of Councillors**

### **2.3.1 Upholding Policy**

The full Council is responsible for setting the Council's formal planning policy framework through the Development Plan. As a general principle there is an expectation that Councillors will uphold the Council's planning policies.

### **2.3.2 Planning consideration**

It falls to the Development Control Committee to determine planning and related applications within the context of these planning policies. When Councillors come to make a decision they must:-

- Be clear as to whether or not they have an interest which needs to be declared.
- Act fairly and openly.
- Approach each application with an open mind.
- Carefully weigh up all relevant issues.
- Determine each application on its own merits.
- Avoid giving the impression that the Member has made her / his mind up prior to the application being determined.
- Ensure that there are clear and substantial reasons for their decisions, and that those reasons are clearly stated.

### **2.3.3 Ward Member Views**

Where a planning application relates to an elected member's ward, the views of the local Member are important to the Officers and to the Chair and Members of the Development Control Committee.

Local Members can be approached by applicants and by objectors and should consider whether their interests have been prejudiced and should disclose this to the Planning Case Officer and Principal Legal Officer at the Development Control Committee. Whilst Members have a responsibility to their constituents, including those who did not vote for them, their overriding duty is to the whole County.

### **2.3.4 Development Control Committee**

Members should not become too closely identified with special interest groups if they wish to vote in the Development Control Committee.

At a meeting of the DC Committee Members with a personal and prejudicial interest in a particular application must declare that interest in accordance with the provisions of the Code of Conduct and leave the meeting when the item in which they have a personal and prejudicial interest is discussed.

However, under the provisions of the Code of Conduct a member with a personal and prejudicial interest can speak to the extent that a member of the public can speak but will then have to leave the Chamber as soon as they have finished speaking and before the debate and vote. Any member who wishes to exercise a right to speak in these circumstances should contact the Committee Chair and the Legal Officer in advance of the meeting.

Where a DC Committee Member has declared a non-prejudicial interest in an item on the agenda they can then take part in the debate and vote.

Where wards have more than one elected member, only one can sit on the planning committee in order to allow at least one of the ward members to perform the representative role for local community interests.

## **2.4 Member/Officer Contact**

### **2.4.1 *Understanding roles***

The Officer/Member relationship is extremely important for good decision making and the delivery of an effective planning service.

The mutual understanding of their respective roles and respect for each other's position is vital for good relations.

### **2.4.2 *Contact & Appointments***

In making enquiries regarding individual applications Members should make contact with the Case Officer or Development and Building Control Manager or the Team Leader and make an appointment if necessary.

Members should not seek advice or information from other Officers. This is in the interests of efficiency and to avoid duplication of effort and confusion.

### **2.4.3 *Assistance from Officers***

Officers will provide every reasonable help to Members in the carrying out of their duties. Meetings between Officers and Members may sometimes be helpful, but are only likely to be of value if prior arrangements have been made. This allows the Officer to have all relevant documents available at the meeting. Prior arrangements may be made by emailing the relevant Officer or the general Planning email address ([planning@bridgend.gov.uk](mailto:planning@bridgend.gov.uk)). The Members' room can be utilised and other suitable rooms, preferably with access to a computer, can be made available by mutual agreement if privacy is required.

### **2.4.4 *Non-interference***

It is acknowledged that Members and Officers may well have differing views on a proposal but Members should not influence, interfere with or put pressure on Officers to make a particular recommendation.

### **3. TRAINING**

#### **3.1 Undertaking training**

Members of the Development Control Committee must receive training before being able to speak or vote at a Development Control Committee meeting. The training will also be offered to all Members.

#### **3.2 Core/Fundamental training**

Core Training will consist of sessions covering new legislation, planning procedures, the Development Plans, Supplementary Planning Guidance, Design Guides, material planning considerations, probity and the application of this Code of Practice.

#### **3.3 Other training**

There will be other training arranged by Officers in consultation with Members and other departments of the Council in the form of additional sessions, seminars and workshops on topical and specific issues to keep Members up to date on new procedures, advice and guidance.

#### **3.4 Attendance & Monitoring**

Members of the Development Control Committee should attend the core training sessions.

## **4. REGISTRATION AND DECLARATION OF INTERESTS**

### **4.1 Code of Conduct**

Councillors should follow scrupulously the Council's Constitution and the **Code of Conduct** in relation to registration and declaration of interests and, if an interest is declared, in deciding whether the Councillor should participate in the consideration of an application. Not only should impropriety be avoided but also any appearance or grounds for suspicion of improper conduct.

If a Member considers he/she may have a personal interest they should consult the Monitoring Officer or a Senior Officer of the Legal & Regulatory Services Officer's Department for advice on their position.

### **4.2 Relationship with Third Parties**

If a Member of the Development Control Committee has had such a significant personal involvement with an applicant, agent, landowner or other interested party whether or not in connection with the particular matter under consideration by the Committee, which could possibly lead to the reasonable suspicion by a member of the public that there may be any possibility that the involvement could affect the Councillor's judgement in any way, then the Councillor should consider carefully whether the involvement amounts to a personal and prejudicial interest, which would debar him/her from participation in the decision-making process.

### **4.3 Personal and Prejudicial Interests**

#### **4.3.1 Disclosure**

The principles about the disclosure of interests should be applied, not only to formal meetings, but also to any of a Councillor's dealings with Council Officers, or with other Councillors. Where a Councillor has a personal and prejudicial interest, as defined by the Code, it must always be declared. It does not necessarily follow that the Councillor is debarred from participation in the discussion.

The responsibility for declaring an interest lies with the Councillor, but the Monitoring Officer is there to advise. If there is any doubt in a Councillor's mind, he/she should seek early advice from the Monitoring Officer or other Senior Officers of the Legal & Regulatory Services on their position. Councillors should err on the side of declaring an interest when they are not sure.

#### **4.3.2 Interests**

Members who have substantial property, professional or other interests relating to the planning function which would prevent them from voting on a regular basis, should avoid serving on the Development Control Committee.

#### **4.3.3 Action when interest declared**

Where a Member has decided he/she has a personal or prejudicial interest making it inappropriate for that Member to be involved in the processing and determination of a planning application in his/her ward, such a Member may arrange for another Member to act as local member instead.



In such a situation the local Member should inform the Monitoring Officer and the Case Officer of the arrangement made and should take no further part in the processing and determination of the planning application other than referring any representations or communications received to the Member who is acting as local Member.

However, the use of substitute members is not allowed at DC Committee meetings.

#### **4.4 Declaration of Interest**

When declaring an interest at Committee, this should be done at the beginning of the meeting. Councillors should be clear and specific in identifying the item on the agenda in which they have an interest, and the nature of that interest.

#### **4.5 Register**

A register of Members' interests is maintained by the Council's Monitoring Officer. It is available for public inspection. Each Councillor has a responsibility to provide the Monitoring Officer with up to date written details of relevant interests.

#### **4.6 Dual Community/Town Council Membership**

##### ***4.6.1 Interest***

Membership of a Town/Community Council which has expressed a view on a planning matter does not in itself mean that the Councillor cannot take part in the determination of the matter when it comes before the Development Control Committee provided that the Councillor has kept an open mind and not committed himself/herself to a final view on the matter until all the arguments for and against have been aired at Committee.

If the Councillor has been a party to the decision making process of a planning application at a Town/Community Council meeting then they should declare an interest at the Development Control Committee and not take part in the decision making process.

Members should always declare a personal interest where they are a member of a Town/Community Council even if they did not take part in the decision making process at that Council.

##### ***4.6.2 Town & Community Applications***

Where an application submitted by a Community or Town Council is being considered then a Member of that Council may not vote on the proposal to determine the application.

## **5. LOBBYING**

### **5.1 Lobbying**

Lobbying or otherwise seeking to influence a decision is an accepted part of the planning process. The Nolan Committee's Third Report states *"it is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective way that this can be done is via the local elected representatives, the Councillors themselves"*. However unless care and common sense is exercised by all parties, the impartiality and integrity of a Councillor that has been lobbied can be called into question.

The Councillor should take care not to make any comments in such discussions that might lead anyone to think that they had taken a firm view on the application.

There is no clear definition of lobbying and Members will need to take a personal view of what it amounts to. For the purposes of this document lobbying is defined as any involvement or approach by an interested party where that party is advocating a certain outcome. This can include instances where a Member is copied into correspondence by an interested party or another Member.

If a Development Control Committee Member is approached, the most prudent course of action is to not offer any indication of their views but simply listen to the case that is presented to them and advise on procedural matters only.

Sometimes planning applications generate strong feelings in the community resulting in public meetings. Members should consider whether it is appropriate to attend public meetings as this may be interpreted as adopting a position for/against a proposal. If they do attend they should publicly record that they are in attendance to hear the debate only and will not come to a final decision until they have heard all the evidence.

This advice applies to the Pre-Application Consultation process implemented by the Welsh Government in March 2016 (see Section 8.2 below).

### **5.2 Decision on Merits**

Councillors are under an obligation to determine matters on their merits. That means that they should not take a firm view on a planning matter before receiving and reading any Officer's report or receiving any new information reported to the Committee.

Whilst Members of the Committee may form an initial view or opinion, and indicate their view that an application is contrary to policy, they should not openly declare which way they intend to vote in advance of the Development Control Committee meeting.

To avoid compromising their position before they have received all the relevant information, Councillors are advised that they should:-

- Refer applicants / developers who approach them for planning or procedural advice to the case Officer.
- Avoid making it known in advance whether they support or oppose the proposal.
- Avoid campaigning actively in support of a particular outcome.
- Not put pressure on Officers to make a particular recommendation in their report.
- Direct lobbyists or objectors to the case Officer, who will include reference to their

opinions where relevant in their report.

- Make it quite clear that they will not make any final decision on the proposal until they have received full information at the Development Control Committee.

### **5.3 Contact**

Members should declare significant contact with applicants and objectors. Significant contact is where a Member has been contacted (either orally or in writing) and believes his/her interests have been prejudiced. Members should always remember that the test as to whether their interests have been prejudiced is not just what they consider to be the case but what a reasonable bystander who is aware of all the facts of the contact would consider to be the case.

### **5.4 Ward Councillors**

Members must advise the Ward Councillor as a courtesy in cases where they are seeking to be involved in a development proposal or enforcement issue outside of their own Ward. It is accepted that where a planning application has a significant effect on another ward the Member(s) for that ward is entitled to become involved in the development proposal.

### **5.5 Monitoring Officer**

Councillors should in general, avoid organising support for or against a planning application. Where a Councillor does organise support for or against a planning application then that Councillor should not vote at Development Control Committee on such a planning application. Where a Member is in doubt about such issues the Member should seek advice from the Monitoring Officer or other Senior Officer of the Legal and Regulatory Service Officers Department.

### **5.6 Predetermination**

If a Councillor expresses support for, or opposition to, a proposal before the matter is formally considered at the relevant meeting, whether or not there has been lobbying, he / she could have some difficulty in being able to claim to retain an open mind on the issue and to be prepared to determine the application on its merits. If a Councillor does express an opinion, then they should make it clear that it is a preliminary opinion and that he / she will only be in a position to take a final decision when all the evidence and arguments have been considered.

### **5.7 Members function**

Provided that Councillors comply with 5.1., 5.2, 5.3, 5.4, 5.5 and 5.6 above they are able to:-

- Listen and receive viewpoints from residents, constituents or other interested parties.
- Make comments to residents, constituents, interested parties, other Councillors or Officers.
- Seek information through the appropriate channels.
- Bring to the Committee's attention views / opinions of residents, constituents or other interested parties.
- Participate in the decision making process.

### **5.8 Disclosure**

If however a Councillor has not complied with paragraphs 5.1, 5.2, 5.3, 5.4, 5.5 and 5.6 above, and has made it clear that he or she has predetermined the matter, they should not speak or vote on the matter.

## **6. APPLICATIONS SUBMITTED BY MEMBERS AND OFFICERS**

### **6.1 Not to be delegated**

Planning applications submitted by or on behalf of Members or any member of the Council's Development or Highway Services staff involved in the processing/commenting upon applications, any Chief Officer of the Authority or any officer reporting directly to a Chief Officer (or the spouse or partner of any of these) shall be decided by the Development Control Committee and not by the Corporate Director Communities under delegated powers if a material planning objection to their application is received.

### **6.2 Declaration of Interest**

A Member affected by clause 6.1 shall declare a personal and prejudicial interest at any meeting of the Development Control Committee to determine the application, take no part in the decision and leave the meeting place. The Member may be able to take part in proceedings as a speaker only under the relevant provisions of the Code of Conduct (see Paragraph 2.3.4 above).

### **6.3 Officer affected**

The affected Officer shall take no part in the processing of the application and its determination and shall leave any meeting of the Development Control Committee before the relevant item is discussed.

## **7. APPLICATIONS SUBMITTED BY THE COUNCIL**

### **7.1 Equal footing Council Applications**

It is important that the Council is seen to be treating applications for its own development (or a development involving the Council and another party) on an equal footing with all other applications as well as actually doing so.

### **7.2 Council applications – Consultation**

All such proposals will be subject to the same administrative processes, including consultation, as private applications with consideration being made in accordance with policy and any other material planning considerations.

### **7.3 Transparency**

In order to ensure transparency and openness in dealing with such applications Council proposals (save for discharge of conditions) will be determined by the Development Control Committee if a material planning objection is received and not by the Corporate Director Communities Officer under delegated powers.

## **8. PRE-APPLICATION**

### **8.1 Pre-Application Advice**

It is good practice for potential applicants to seek advice from the LPA prior to submitting an application. However, unless these discussions take place under specific rules, they can be seen as a form of lobbying (especially by objectors) or in some way predetermining the future planning application.

Pre-application discussions will (unless in exceptional circumstances) be carried out solely by officers. This is to protect the impartiality of Members. Exceptional circumstances are not defined in this document but will be limited to cases where there is an overriding need for Members to be present in the public interest.

All discussions take place on a without prejudice basis. The advice offered is not binding on the Council but every effort is made to ensure that the advice is consistent and sound in planning terms.

Members and Officers must be aware that pre application advice is no longer free of charge. This places an additional responsibility on Officers to provide a quality service. If Members later take a decision that conflicts with any pre application advice given by Officers, they must only do so for material planning reasons that are clearly expressed and recorded in minutes.

Pre application discussions will be conducted in private.

### **8.2 Pre-Application Consultation on Major Developments**

The requirement to undertake pre-application consultation applies to all planning applications for “major” development (full or outline) and applications for Developments of National Significance (DNS).

Developers are also required to undertake pre-application consultation with “community consultees” and “specialist consultees”.

“Community consultees” comprise:

- Each community council (this includes both town and community councils) in whose area the proposed development would be situated; and/or
- Each councillor (local member) representing an electoral ward in which proposed development would be situated.

Developers are required to inform all local councillors that are responsible for the electoral ward in which the proposed development is located.

If the proposed development straddles a number of electoral wards, all local councillors within those wards will be notified by letter.

Ward Members are entitled, and are often expected, to have expressed views on planning issues. If such comments are expressed members of the Development Control Committee should be careful to stress that they will only make up their mind when they have seen the full report on any particular application.

Members can through personal significant involvement in preparing or advocating a proposal be, or be perceived by the public as being, no longer able to act impartially. Members are able to take part in a consultation on a proposal and, if they are a member of the DC Committee, the subsequent determination of the application provided that:-

- They do not in any way commit themselves as to how they may vote when the proposal comes before the DC committee for determination;
- They focus only on site factors and site issues;
- They do not excessively lobby fellow councillors regarding their concerns or views and not attempt to persuade them how to vote in advance of the meeting at which the planning decision is take;
- They are not involved in negotiations regarding the application. These should be conducted by Officers separately from any pre-application discussions members have been involved in.

At pre-application consultation stage Members can ask relevant questions for the purpose of clarifying their understanding of the proposal but must remember that the presentation is not part of the formal process of debate and determination of any application.



## 9. DEVELOPMENT CONTROL COMMITTEE SITE VISITS

### 9.1 Purpose

#### 9.1.1 *Fact Finding*

Development Control Committee site visits are not meetings where decisions are made and neither are they public meetings. They are essentially fact finding exercises held for the benefit of Members where a proposed development may be difficult to visualise from the plans and supporting material.

They may also be necessary for careful consideration of relationships to adjoining property or the general vicinity of the proposal due to its scale or effect on a listed building or conservation area for example.

### 9.2 Request for a Site Visit

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

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

Site visits must never be called simply to expose other Members to the strength of public opinion. The public speaking policy exists for the public to be heard at Planning Committee. The volume of objectors or supporters to a planning application is not relevant if the basis of their opinion is based upon non material planning considerations.

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

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

Whilst any such request will be taken into consideration in terms of necessity, safety and expediency, it may not be possible to arrange a site visit as a matter of course and Members should be aware that we have not yet returned to a business as usual approach. The Chair will be the arbiter in these circumstances.

Site visits cannot be undertaken for inappropriate reasons (see Paragraph 9.2.2).

Site Visits are an important part of the decision making process and they should occur on the same day and at the same time (i.e. from 9.30am on the Wednesday before committee).

### **9.2.2 Inappropriate Site Visit**

Examples where a site visit would not normally be appropriate include where;

- purely policy matters or issues of principle are at issue
  - to consider boundary or neighbour disputes
  - issues of competition
  - loss of property values
- any other issues which are not material planning considerations (See Appendix 2) where Councillors have already visited the site within the last 12 months

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

### **9.3.1 Attendance**

Members of the Development Control Committee, the local Ward Member(s) and the relevant Town or Community Council will be notified in advance of any visit.

The applicant and/or the applicant's agent will also be informed as will any person who has registered an intention to speak at Committee but it will be made clear that representations cannot be made during the course of the visit.

### **9.3.2 Officer Advice**

The Chair will invite the Planning Officer to briefly outline the proposals and point out the key issues raised by the application and of any vantage points from which the site should be viewed.

Members may ask questions and seek clarification and Officers will respond. The applicant or agent will be invited by the Chairman to clarify aspects of the development and the local Ward Member(s) and one objector who has registered a request to speak at Committee and a Town/Community Council representative will be allowed to clarify any points of objection, both only in respect of any features of the site or its locality which are relevant to the determination of the planning application. Any statement or discussion concerning the principles and policies applicable to the development or to the merits of the proposal will not be allowed.

### **9.3.3 Code of Conduct**

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

### **9.3.4 Record keeping**

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

### **9.3.5 Site Visit Summary**

In summary site visits are:-

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

The frequency and reason for site inspections will be monitored and reports will be

submitted periodically to Committee, in order that these guidelines can be kept under review.

## **10. PROCEDURE AT DEVELOPMENT CONTROL COMMITTEE**

### **10.1 Delegation**

The majority of planning applications are determined by the Corporate Director Communities Officer under the Council's Delegation scheme. This is necessary to ensure that most decisions are made in a timely manner.

Delegation is a more efficient and speedy means of determining planning applications. In most instances the outcome will be the same. Increased performance management and targets set by Welsh Government mean that delegation will need to increase in future if these targets are to be met.

Whilst Members have a right to request that applications affecting their ward be determined by the Development Control Committee such requests can only relate to applications where a material objection has been lodged and should then be justified by clearly identifying in writing why a Committee decision is required. This is generally done on the return notification form sent out to Ward Members.

The delegated arrangements shall be in accordance with the Council's scheme of Delegation of Functions (See Appendix 1).

### **10.2 Reports**

Officers will produce written reports on all planning applications reported to Committee. In respect of each proposal the report will include, amongst other matters:-

- description of the proposal,
- description of the site,
- responses to consultations and officer observations thereon,
- summary of objections and / or support received,
- relevant site history,
- relevant Development Plan policies,
- relevant planning guidance where appropriate,
- any other material planning consideration,
- an appraisal by the Case Officer which will include the relevant views of other consulted Officers within the Development Department,
- a clear recommendation,
- brief details of any conditions to be imposed, or,
- full details of reasons for refusal.

### **10.3 Late observations**

Late observations received by 5pm on the Tuesday before a Committee meeting will be summarised and reported separately and circulated to Members immediately prior to the start of the meeting (although it is acknowledged that later representations may include valid material planning points that should be considered and included within the amendment sheet).

Members should not attempt to introduce documentation at the Committee meeting where the Planning Officer has not had an opportunity to consider the contents of the documentation. This is essential to ensure Members receive properly considered and correct advice.

Members should not give any significant weight to late submissions put directly to them instead of the LPA (ostensibly in an attempt to influence opinion) where they contain nothing new or merely assert a point without any clear evidence.

Any representations sent directly to members of the DC Committee the evening or morning before the scheduled meeting should be passed on to Officers to add to the file.

#### **10.4 Officer Report at Committee**

The Planning Officer will, at the Chairs request, briefly introduce each item highlighting the key issues for Members consideration.

#### **10.5 Deferment**

Where a Member seeks and obtains a majority for a deferment for a specific purpose then there will be no further debate on that matter until such time as the proposal is re-presented.

Public Speaking will take place in accordance with the agreed Public Speaking arrangements.

## **11. DECISIONS CONTRARY TO OFFICER RECOMMENDATION**

From time to time members of the Development Control Committee will disagree with the professional advice given by the Corporate Director Communities. The Committee's decisions must be in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. If Members are minded to make a decision contrary to the Officer's recommendation the application should be referred to the next meeting of the Committee to enable officers to advise Members further.

Where a Member proposes a recommendation contrary to the Officer's recommendation then the proposer should set out clearly the material planning reasons for doing so. The Chairperson will ensure that the Officer is given the opportunity to explain the implications of the contrary decision, before a vote is taken.

In cases where the Development Control Committee decides for good and valid reasons to depart from the Corporate Director Communities recommendation, the Committee must always define the reasons for rejecting the Officer's recommendation and those reasons must be recorded in the minutes of the meeting.

Where Members of the DC Committee are minded to take a decision against Officers recommendation, so that consideration of that matter is deferred to the next meeting of the Committee, Members will receive a further report from Officers upon the strengths and weaknesses of any proposed or possible planning reasons for such a decision.

In cases where Members overturn an Officer's recommendation for approval, the reasons for will be drafted and reported back to members at the next Development Control meeting. In cases where Members overturn an Officer's Recommendation for refusal, conditions subject to which the planning approval should be granted (and if relevant any section 106 obligations which should be imposed on the grant of consent) will be drafted and reported back to members at the next Development Control meeting.

## **12. APPEALS AGAINST COUNCIL DECISIONS**

### **12.1 Officers Role**

Officers will defend planning appeals on behalf of the Council whether by written representations, through a hearing or public inquiry. In some circumstances where specialist knowledge is required it may be necessary to appoint consultants to present the Council's case. There is no budget for such commissions and decisions of this sort will only be taken by the Group Manager – Development in consultation with the Chief Legal Officer.

### **12.2 Committee Members Role**

In cases where an appeal is lodged as a result of a decision taken contrary to Officer advice, the Group Manager – Development will consider whether Members should present the case for the Council. There will be instances where Officers can act in an advocacy role and defend a decision they do not agree with.

However, in cases where that decision is considered unsound, unreasonable or would otherwise compromise the professional position of Officers, Members will be required to present the case, potentially with the aid of an appointed consultant. Officers will assist in terms of technical, logistical and administrative support.

### **12.3 Members support of an appellant**

Where a member, who has expressed support for the applicant at the time of the decision, decides to make representations supporting the appellant, that member must ensure that those representations are qualified at the beginning of an appeal to confirm that those representations are not the view of the Local Planning Authority but are purely the view of that particular member.

Where a Member wishes to make representations at an appeal that are contrary to the decision of the DC Committee they should first inform the Group Manager - Development of their decision so that the Planning Inspectorate can be informed. Members in these circumstances must understand that the views that they put forward do not represent the views of the Council or the DC Committee.

### **12.4 RTPI Code of Conduct**

Whether or not the Officer is a member of the Royal Town Planning Institute, they will be required to respect the professional code of conduct of that RTPI. It demands that Officers do not make statements purporting to be their own but which are contrary to their *bona fide* professional opinion.

Where the Corporate Director Communities clearly feels that Officers would be unable to defend such decisions on appeal (due to requirements of the Professional Code of Conduct of the Royal Town Planning Institute) then this shall be made known to the Committee. In such cases the Committee may nominate a Member who voted contrary to the recommendation to appear at any appeal and explain the Committee decisions and the reasons for them.

### **13. PLANNING AGREEMENTS AND SECTION 106s**

Section 106 agreements are legal obligations. They require a developer to fulfil certain obligations to enable a development to take place e.g. improve an offsite road junction.

Planning permission must never be bought or sold. S106 agreements are not a mechanism for developers to offer “sweeteners” to a Council to obtain planning permission. Similarly, they are not a means of securing facilities that the Council should be providing in any event regardless of the proposal. The obligations placed on a developer must pass the relevant legal tests set out in the Regulations. They must be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. All s106 negotiations will take place in light of the LDP and the adopted Supplementary Planning Guidance Document.

The Development Control Committee may, when considering the merits of an individual planning application, consider any planning obligation which has been offered by the applicant or agent but should form a view solely on the basis of the contents of the application and should take into account offered planning obligations only to the extent that they are necessary to make a proposal acceptable in land use planning terms.

Where the draft Heads of Terms of a Section 106 Legal Agreement has been the subject of negotiation between Officers and the applicant/agent post a resolution by Members to approve an application subject to the original terms, Officers will refer any proposed changes back to DC Committee for approval.

Councillors should avoid becoming involved in discussions with applicants, prospective applicants, their agents, landowners or other interested parties regarding benefits, which may be offered to the Council, or benefits which the Council itself wishes to obtain.



## **14. REGULAR REVIEW OF DECISIONS**

### **14.1 Reviewing Decisions**

As part of the aim to continually improve the quality of planning decisions, Members will be offered the opportunity to revisit implemented planning decisions on site. Such reviews will be a positive step to improve the quality and consistency of decision-making, not only strengthening public confidence in the planning system but also assist with the review of planning policy.

Such reviews will take place when there is scope to fit the programme in between DC Committee meetings and briefing notes will be prepared for each case. The DC Committee will formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

## **15. COMPLAINTS PROCEDURE**

The Council has a formal complaints policy and system in operation, which can be used if someone wishes to make a complaint about the operation of the planning system. This policy does not apply if the matter relates to a Freedom of Information or Data Protection issue.

## Appendix 1

### SCHEME OF DELEGATION

The Council operates a scheme of delegation where they have delegated powers to officers to determine most planning applications and other related planning submissions. The Audit Commission has advised that 90% of all planning applications should be determined under delegated powers. This Authority now determines in excess of 90% of all applications received under delegated power arrangements.

Applications to be accepted and dealt with by the Development Control Committee should be as follows:-

- a) an application which is contrary to the provisions of an adopted development plan, and which is recommended for approval, or an application which accords with the provisions of an approved development plan, but which is nevertheless recommended for refusal.
- b) [i] an application in respect of which a statutory consultee has submitted a material planning objection in writing/electronically within the stipulated consultation period and which has not been resolved by negotiation or through the imposition of conditions and which is recommended for approval.  
  
[ii] an application in respect of which a Town/Community Council has submitted a material planning objection in writing/electronically within the stipulated consultation period and which has not been resolved by negotiation or through the imposition of conditions and which is recommended for approval and where other objections to the proposal have been received. If no other objections are received the Corporate Director Communities in consultation with the Chairman of the Development Control Committee shall determine the materiality of the objection to the assessment of the application and whether the application should be reported to the Development Control Committee.
- c) an application which a local Member formally requests should be the subject of consideration by the Development Control Committee by notifying the Corporate Director Communities in writing/electronically (within 21 days of the circulation of details of the application) of the material planning reasons why the Councillor considers the application should be considered by the Committee unless (i) a delegated decision would be in line with the views of the Member or (ii) no other objection has been received within the consultation/publicity period and the Chairman of the Development Control Committee does not consider it necessary to report the application to Committee.
- d) a householder application in respect of which more than two neighbours have submitted a material planning objection in writing/electronically within the stipulated consultation period or any other application in respect of which more than four objectors have submitted a material planning objection in writing/electronically within the stipulated consultation period, which has not been resolved by negotiation or through the imposition of conditions, and which is recommended for approval. The Corporate Director Communities in consultation with the Chairman of the

Development Control Committee shall determine whether objections from members of the same household be treated as one neighbour objection.

- e) an application submitted by or on behalf of a Councillor, any member of the Council's Development or Highway Services staff involved in the processing/commenting upon applications, any Chief Officer of the Authority or any officer reporting directly to a Chief Officer (or the spouse or partner of any of these) if a material planning objection has been received within the stipulated consultation period.
- f) an application submitted by the Corporate Director Communities if a material planning objection has been received within the stipulated consultation period.
- g) an application which the Corporate Director Communities considers should be presented to Committee for decision including those that in the opinion of the Director are potentially controversial, likely to be of significant public interest or which may have a significant impact on the environment.

## **Appendix 2 – Planning Considerations**

### **Relevant or Material Planning Considerations:**

When a decision is made on a planning application, only certain issues can be taken into account. These are referred to as 'material planning considerations'. This list is not exhaustive or in order of importance.

- ✓ *Local and national planning policies e.g. the Local Development Plan and Planning Policy Wales.*
- ✓ *EU law and regulations.*
- ✓ *Government circulars, orders, statutory instruments, guidance and advice e.g. TAN's.*
- ✓ *Planning history including appeal decisions and pre-application consultation with the LPA.*
- ✓ *Case law.*
- ✓ *Socio economic benefits e.g. employment generation.*
- ✓ *Sustainability.*
- ✓ *Nature conservation including habitat and biodiversity opportunities.*
- ✓ *Loss of outlook or overshadowing (not loss of view).*
- ✓ *Flood risk.*
- ✓ *Overlooking and loss of privacy.*
- ✓ *Highway issues e.g. traffic generation, access, highway safety.*
- ✓ *General noise or disturbance resulting from use, including proposed hours of operation.*
- ✓ *Odours, air quality and emissions.*
- ✓ *Archaeology.*
- ✓ *Capacity of infrastructure, e.g. public drainage systems.*
- ✓ *Deficiencies in social facilities, e.g. spaces in schools.*
- ✓ *Contaminated land.*
- ✓ *Loss of or effect on trees.*
- ✓ *Disabled access to existing buildings.*
- ✓ *Effect on listed buildings and conservation areas.*
- ✓ *Layout, scale, appearance and density of buildings.*
- ✓ *Landscaping and means of enclosure.*
- ✓ *Loss of open space.*
- ✓ *S106 or CIL.*

The weight attached to material considerations is a matter of judgement. This will differ from case to case. The decision taker is required to demonstrate that in reaching every decision, they have considered all relevant matters. Greater weight must be attached to issues which are supported by evidence rather than solely by anecdote, assertion or assumption.

## **Non-material or Irrelevant Planning Considerations:**

The LPA is not allowed to take the following into account when deciding a planning application.

- \* Devaluation of property.*
- \* Precedent.*
- \* Moral, racial or religious issues.*
- \* Internal layout of buildings.*
- \* Matters controlled by other legislation e.g. structural stability, fire precautions, licences etc.*
- \* Private issues between neighbours e.g. ownership/ boundary disputes, damage to property, private rights of access, covenants, private rights to light, maintenance of property.*
- \* The identity of the applicant, their motives, personal circumstances or track record in planning.*
- \* Previously made objections/representations regarding another site or application.*
- \* Competition between individual private businesses or the “too many already” principle.*
- \* Loss of view.*
- \* Time taken to complete development.*

## **Appendix 3**

# **NOTES ON PROCEDURE FOR PUBLIC SPEAKING AT DEVELOPMENT CONTROL COMMITTEE MEETINGS**

The following notes are designed to help you to decide if you are eligible to speak at Committee and if so how to go about it, should you wish to do so (please note some 95% of all applications are dealt with under delegated powers and are not reported to Committee).

## **The Meetings**

The Development Control Committee is normally held at the Civic Offices Angel Street, Bridgend, CF31 4WB every sixth Thursday although we have been holding the meetings on Teams since the Pandemic.

The applications that are to be discussed at Committee are set out on a report which is available beforehand.

You are advised to arrive no later than 5 minutes before the meeting which starts at 2pm. A clerk will advise on seating (once the meetings resume in the Chamber) and answer any other queries.

**Speakers should advise the Council in advance if they have any special needs.**

## **Webcasting of meetings**

Speakers should be aware that some meetings will be webcast live on the Council's website and your voice will be heard as part of the live webcast of the meeting.

## **Are you eligible?**

You should be one of the following:-

- An objector against the application or their representative who has submitted an objection in writing detailing your concerns;
- A representative of a Town or Community Council;
- A County Borough Councillor not on the Development Control Committee within whose ward the application is situated or a Cabinet Member;
- The applicant or their agent/advisor (if an objector or a Town or Community Council or a County Borough Councillor not on Committee speaks against your proposal)

## **How do I go about it?**

It is your responsibility to check whether the application is to be considered by Committee by reviewing the Council's website.

Whilst notification letters are sent out before committee, I am unable to guarantee the postal service. Please note that you will only have a short period in which to decide if you want to speak once notified.

## **When can I see the Officer's report?**

The report is available for public inspection from the Monday before the meeting on the planning web page accessible via [www.bridgend.gov.uk](http://www.bridgend.gov.uk)

## **How can I register my desire to speak?**

If you wish to speak at Committee you should confirm your interest in your initial observations and

include your day time telephone number.

You must then confirm between 11.00am and 11.30am on the day (Wednesday) before Committee (for applicants/agents between 11.30am and 12pm) that you still intend to speak by phoning the Cabinet and Committee Officer on (01656) 643148.

### **How is the speaking organised?**

Where more than one objector registers to speak, they will be encouraged to appoint a spokesperson to speak for a maximum of 5 minutes. However, if both parties wish to speak then they will be allocated 2 ½ minutes each to speak. If more than 2 objectors register a request to speak at committee then the first two callers will be allowed to speak on a first come first served basis.

Representatives of the relevant Town or Community Council, the County Borough Councillor not on Committee and applicant/agent will also have 5 minutes each to speak.

The County Borough Councillor not on Committee speaks first and the objector(s) speak(s) next.

Through the Chair, Members will be able to question objectors on any points arising from their address to committee to clarify any points of a technical/fact finding nature.

Where an application is deferred after public speaking had taken place, public speakers will not be heard on the second occasion unless the deferral resulted in a new consultation process or a requirement for an amended scheme.

### **How will the scheme work for Applicants/Agents?**

Once it is known that an objector has registered to speak against an application, the applicant or agent will be notified by the Development Department. If the applicant or agent wish to exercise the right of reply they must notify the cabinet and committee officer on tel: (01656) 643148 between 11.30am - 12.00pm on the day before committee.

Time will be allowed for speaking immediately after the objector and Town/Community Council representative/County Borough Councillor not on Committee or Cabinet Member has spoken.

No guarantee will be given that an application will be determined at any particular Committee nor that an objector will actually speak, in which event the applicant or agent will not be able to speak.

Through the Chair, it will be possible for DC Committee Members to ask technical/fact finding questions of the applicant/agent. The agent/applicant would then be able to clarify points raised by Committee although this process will not be an opportunity to make further representations to committee.

### **How the scheme will work for Town and Community Councils?**

Town and Community Councils will continue to be notified as at present of the receipt of all planning applications in their area. If the Town/Community Council resolve to object to any application and notify the Development Department as above, they will be entitled to address the Development Control Committee.

### **How long can I speak?**

Individual objector, Applicant, Agent or County Borough Councillor not on Committee or Cabinet Member - **Up to five minutes maximum (2 ½ minutes maximum each if there are two objectors who wish to speak)**. This limit will be strictly observed.



## Extraordinary Applications

In the case of extraordinary applications Committee will consider whether public speaking rights need to be extended.

If the Committee agrees, objectors and applicants will each have up to a maximum of 10 minutes to address Committee.

This time can be shared amongst different objectors or representatives on behalf of the applicant. County Borough Councillors not on Committee and the representatives of a Town/Community Council will continue to have 5 minutes to address Committee.

## What can be said at Committee?

- Comments should be limited to relevant Planning issues already raised in the written representations or application. These may include:-
  - Planning policies, including those in the Development Plan;
  - Appearance and character of development, layout and density;
  - Traffic generation, highway safety and parking;
  - Overshadowing, overlooking, noise disturbance or other loss of amenity.
- Matters that cannot be considered by Committee include:-
  - Boundary disputes, covenants and other property rights;
  - Personal remarks (e.g. The applicant's motives);
  - Rights to a view or potential devaluation of property.

The presentation of plans, drawings or other visual aids, the taking of photographs or the use of voice recording equipment will not be permitted.

Speakers may not ask questions of others at the meeting, nor will others be allowed to ask questions of them unless the Chairman wishes to seek clarification.

If the speakers cannot attend the meeting or do not have the technology to partake in the meeting, it may be possible for their representations to be read out at the meeting.

A copy of the speaker's speech should be submitted to the Planning Department via [planning@bridgend.gov.uk](mailto:planning@bridgend.gov.uk) in order for it to be added to the file.

## Who else can speak?

**Officers of the Council** - to present report recommendation and provide advice.

**Members of the Committee** - to consider and reach a decision.

## When is the decision made?

Usually immediately after the discussion by a majority vote of the Committee Members. Sometimes a decision will be deferred for further information, revised plans or a Members' site visit.

Deferred cases are normally brought back to the following meeting and if you did not get an opportunity to speak at the initial meeting, you will need to follow the above procedure to speak at the next meeting.

Please be aware that the Members have to balance different factors and come to an objective decision based on planning considerations.

If they refuse an application contrary to the Officer's recommendation, the item will be reported back to the next meeting after a cooling off period to allow the reasons for refusal to be prepared and they will need to be able to support that decision on appeal.

If Members wish to approve an application contrary to the Officer's recommendation then the item will be reported back to the next meeting after a cooling off period to allow any conditions to be prepared.

### **Can I appeal against the decision?**

Only if you are the applicant. There are no third party rights of appeal.

### **What happens after the Committee?**

The DC Committee's decision and the reasons for it will be confirmed to applicants in writing. Normally applicants (or their agent(s)) will be notified of the decision within three working days (unless it is subject to a Planning Obligation). Objectors can review the decision notice online using the Council website's Planning Search facility.

**Development Group – Communities Directorate**

## **TRAINING LOG**

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

<b><u>Subject</u></b>	<b><u>Date</u></b>
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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