

## **APPEALS**

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

**CODE NO.** A/17/3186793 (1815)  
**APPLICATION NO.** P/17/253/FUL  
**APPELLANT** MR TERRY COX  
**SUBJECT OF APPEAL** THE USE OF LAND FOR THE STATIONING OF A MOBILE HOME FOR RESIDENTIAL PURPOSES  
LAND AT MINFFRWD LAKES, RHIWCEILIOG, PENCOED  
**PROCEDURE** HEARING  
**DECISION LEVEL** DELEGATED OFFICER

The application was REFUSED for the following reason:-

1. The proposal would represent a new isolated home in the countryside for which an overriding essential need has not been justified. The application site is remote from services, facilities, education, employment opportunities and sufficient public transport links and will therefore increase the need for journeys made by private vehicles. The proposal would, in addition, represent an unjustified and undesirable intrusion into an attractive area of open countryside to the detriment of the visual appearance and character of the landscape and would not represent sustainable development and is therefore contrary to national policy contained in Planning Policy Wales (Edition 9 2016) and Policy ENV1 of the Bridgend Local Development Plan.

---

**CODE NO.** A/17/3186945 (1816)  
**APPLICATION NO.** P/16/848/FUL  
**APPELLANT** FIELDBAY LTD  
**SUBJECT OF APPEAL** CHANGE USE OF SINGLE RESIDENTIAL DWELLING (C3) TO 10 BEDROOM ASSISTED LIVING CARE HOME (C2) & ASSOCIATED WORKS INCLUDING CONVERSION OF GARAGE INTO 3 BEDROOMS, EXISTING ANNEX INTO 2 SELF CONTAINED UNITS, INFILL PORCH EXTENSION NORTH LODGE, PENYFAI  
**PROCEDURE** WRITTEN REPRESENTATIONS  
**DECISION LEVEL** DELEGATED OFFICER

The application was REFUSED for the following reasons:-

1. The development, by reason of its nature, scale and location, would result in a significant additional use of the sub-standard accesses and road therefore increasing the risk of traffic hazards to the detriment of highway safety which is contrary to Policy SP2(6) and SP3 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 9, November 2016) and Technical Advice Note (TAN) 18: Transport (2007).
2. The development, by reason of the nature, scale, siting, remote and unsustainable location, that is not accessible by a range of different transport modes, would increase the reliance on the use of private motor vehicles contrary to policy SP2(6) of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 9, November 2016) and Technical Advice Note (TAN) 18: Transport (2007).
3. The proposed development would generate pedestrian movements along the unnamed road between Court Colman and Penyfai where there is no pedestrian footway generating a risk of pedestrian / vehicular conflict to the detriment of highway safety, contrary to Policy SP2 (11) of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 9, November 2016) and Technical Advice Note (TAN) 18: Transport (2007).

---

<b>CODE NO.</b>	A/17/3184080 (1817)
<b>APPLICATION NO.</b>	P/17/206/OUT
<b>APPELLANT</b>	SHARON ENGLISH EXEC OF MRS D HAZELHURST
<b>SUBJECT OF APPEAL</b>	DEMOLITION & REPLACEMENT OF AN EXISTING BUNGALOW WITH 3 TWO STOREY DETACHED DWELLINGS SUMMERVILLE BUNGALOW, HEOL LAS, MAWDLAM
<b>PROCEDURE</b>	WRITTEN REPRESENTATIONS
<b>DECISION LEVEL</b>	DELEGATED OFFICER

The application was REFUSED for the following reasons:-

1. The proposal, by reason of the proposed number of units and their siting, scale and design, represents a cramped and inappropriate form of infill development that would result in the overdevelopment of the site to the detriment of the existing character and amenities of the area. The proposed development is therefore contrary to Policy SP2 of the Bridgend Local Development Plan 2013 and advice contained in Planning Policy Wales (Edition 9, November 2016) and Technical Advice Note - 12 - Design (2016).
2. The proposal, by reason of its design and proximity to the neighbouring property known as Ty Gwyn, would fail to protect the privacy and amenities of the occupiers of this dwelling contrary to Policy SP2 (12) of the Bridgend Local Development Plan 2013, Council's Supplementary Planning Guidance SPG02: Householder Development and the advice contained in Planning Policy Wales (Edition 9, November 2016).
3. The access lacks adequate visibility to serve the proposed development and would create traffic hazards to the detriment of highway safety within and outside the site contrary to

policy SP2 (6) of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 9, November 2016) and Technical Advice Note 18 – Transport (2007).

4. Insufficient information has been submitted with the planning application to assess the impact of the development on land drainage and ecology contrary to the requirements of Policy SP2 and Policy ENV6 of the Bridgend Local Development Plan 2013, Council's Supplementary Planning Guidance SPG:19 Biodiversity and Green Infrastructure and the advice contained in Planning Policy Wales (Edition 9, November 2016).

---

<b>CODE NO.</b>	A/17/3187606 (1818)
<b>APPLICATION NO.</b>	P/17/507/FUL
<b>APPELLANT</b>	MR & MRS D HOPKINS
<b>SUBJECT OF APPEAL</b>	PROPOSED KENNELS & CATTERY & TEMPORARY DWELLING: TY RISHA FARM, PEN Y CAE, PENYFAI
<b>PROCEDURE</b>	WRITTEN REPRESENTATIONS
<b>DECISION LEVEL</b>	DELEGATED OFFICER

The application was REFUSED for the following reasons:-

1. The proposed development, by reason of its form and location, represents an inappropriate development that would harm the open nature of the Green Wedge designation and the character and appearance of the rural setting. The proposal is therefore contrary to Policies ENV1, ENV2 and SP2 of the Bridgend Local Development Plan (2013), and national guidance contained in Planning Policy Wales (Ed.9, November 2016) and Technical Advice Note 6: Planning for Sustainable Rural Communities (2010).
2. The proposed development would generate increased traffic and pedestrian movements along Pen-y-Cae Lane towards the A4063 where there is no pedestrian footway resulting in an increased risk of pedestrian / vehicular conflict to the detriment of highway safety, contrary to Policy SP2 (11) and SP3 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 9, November 2016).
3. The proposed development is situated in a remote, unsustainable location that is not accessible by a range of different transport modes and will rely on the use of private motor vehicles, contrary to policy SP2(6) of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 9, November 2016).
4. The proposed development does not comply with the definition of a rural enterprise as set out in paragraph 4.3.2 of Technical Advice Note 6: Planning for Sustainable Rural Communities (2010) and insufficient information has been submitted to justify the siting of a new rural enterprise and dwelling in this location, contrary to Policies ENV1, ENV2 and SP2 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 9, November 2016) and Technical Advice Note 6: Planning for Sustainable Rural Communities (2010).

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

**CODE NO.** A/17/3167313 (1794)  
**APPLICATION NO.** P/15/640/FUL  
**APPELLANT** TRIANGLE 3  
**SUBJECT OF APPEAL** EXTENSION TO PROVIDE ADDITIONAL CLASS A1 RETAIL FLOORSPACE (1 UNIT)  
NEXT TO UNIT 6/7 WATERTON RETAIL PARK, BRIDGEND  
**DECISION** THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE ALLOWED SUBJECT TO CONDITIONS

The appeal decision was reported to Committee on 28 September 2017. A copy of the appeal costs decision is attached as APPENDIX A

---

**CODE NO.** D/17/3181332 (1810)  
**APPLICATION NO.** P/17/286/FUL  
**APPELLANT** MR G EVANS  
**SUBJECT OF APPEAL** NEW DETACHED DOMESTIC GARAGE TO REPLACE EXISTING DETACHED DOMESTIC GARAGE  
16A DANYCOED, BLACKMILL  
**PROCEDURE** WRITTEN REPRESENTATIONS  
**DECISION LEVEL** DELEGATED OFFICER  
**DECISION** THE APPELLANT HAS WITHDRAWN THE APPEAL.

---

**RECOMMENDATION:**

That the report of the Corporate Director Communities be noted.

**MARK SHEPHARD**  
**CORPORATE DIRECTOR COMMUNITIES**

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



4 OCT 2017

## Penderfyniad ar gostau

Ymchwiliad a gynhaliwyd ar 09/08/17  
Ymweliad â safle a wnaed ar 09/08/17

gan **Richard E. Jenkins BA (Hons) MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru  
Dyddiad: 04.10.2017

## Costs Decision

Inquiry Held on 09/08/17  
Site visit made on 09/08/17

by **Richard E. Jenkins BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers  
Date: 04.10.2017

DEVELOPMENT  
DIRECTOR - COMMUNITIES

**Costs application in relation to Appeal Ref: APP/F6915/A/17/3167313**

**Site address: Waterton Retail Park, Waterton, Bridgend, CF31 3TN**

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

- The application is made under the Town and Country Planning Act 1990, sections 78, section 322C and Schedule 6.
- The application is made by Bridgend County Borough Council for a full award of costs against Triangle 3.
- The inquiry was in connection with an appeal against the refusal of planning permission for extension to provide additional class A1 retail floorspace (1 unit).

## Decision

1. The application for an award of costs is allowed in the terms set out below.

## Reasons

2. Welsh Government (WG) guidance relating to an award of costs, in the form of the WG Development Management Manual (DMM) and the associated Section 12 Annex: 'Award of Costs' (May 2017) (Annex 12), advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for an award of costs to incur unnecessary or wasted expense in the appeal process.
3. In this instance, the appellant sought to address the LPA's objection to the proposed development through the planning appeal process. Specifically, noise mitigation measures, which incorporated plans to erect an enhanced acoustic barrier comprising between 3.5 and 4 metres in height, were introduced late in the appeal process in order to mitigate against the noise impacts referred within the Council's Notice of Decision. Given the nature of the enhanced mitigation measures, there is no doubt in my mind that such changes materially altered the scheme previously determined by the LPA. Moreover, given the submission of this and other evidence late in the appeals process, the Inspectorate took the decision to postpone the Inquiry and reschedule to a later date in order to provide the parties involved in the appeal process sufficient opportunity to consider and respond to the amended scheme and associated evidence. It is notable within the context of this application for costs that it was only following this period of additional consultation that the LPA formally withdrew its objection to the development, confirming at the Inquiry that it would not have refused the original planning application had the proposed mitigation measures and

associated evidence been provided prior to the determination of the planning application.

4. Paragraph 3.6 of Annex 12 sets out a number of examples of unreasonable behaviour that may lead to an award of costs and this includes the procedural matter of introducing fresh evidence or relevant information late in proceedings where it is clear that it could have been provided earlier in the process. The evidence submitted with the planning appeal indicates that the appellant was well aware of the Council's concerns prior to the determination of the planning application and I have not seen any evidence to suggest that such enhanced mitigation measures could not have been advanced through planning application processes or, at the very least, up front in the appeal documentation. Indeed, the submission of evidence which served to evolve the original scheme late in the appeal proceedings comprises unreasonable behaviour that led the LPA to commit unnecessary resources to the appeal process, thereby resulting in unnecessary and wasted expense.
5. For these reasons, I find that a full award of costs is justified.

### **Costs Order**

6. In exercise of the powers under the Town and Country Planning Act 1990, sections 78, section 322C and Schedule 6, and all other enabling powers in that behalf, it is hereby ordered that Triangle 3 shall pay to Bridgend County Borough Council the costs of the appeal proceedings described in the heading of this decision.
7. The applicant is now invited to submit to Triangle 3, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, an application for a detailed assessment by the Senior Courts Costs Office should be considered.

*Richard E. Jenkins*

INSPECTOR