

**REFERENCE:** P/21/150/FUL

**APPLICANT:** Pencoed Social Club Ltd 37 Hendre Road, Pencoed, CF35 6TB

**LOCATION:** Pencoed Social Club Ltd 37 Hendre Road Pencoed CF35 6TB

**PROPOSAL:** Erect a marquee at the front of the club - this will be in the garden of 1 Woodland Avenue which is owned by the club

**RECEIVED:** 22 February 2021

**SITE INSPECTED:** 12 May 2021

### **DESCRIPTION OF PROPOSED DEVELOPMENT & SITE DESCRIPTION**

Full planning permission is sought for the erection of a marquee in association with Pencoed Social Club (British Legion) at 37 Hendre Road, Pencoed. The marquee is proposed to measure 6 metres in width and 10 metres in depth, reaching a maximum height of 3.3 metres with a 2.3 metre high eaves height. It will have a galvanised framework with extra heavy duty PVC covers in a white colour, as shown below:



**6x10m Ultimate Marquee**

*Design of Marquee*

The application site is located within the Main Settlement of Pencoed as defined by Bridgend County Borough Council's adopted Local Development Plan (2013). The marquee will be accessible from the car park area of the club which lies to the front (north) of the existing building, a two storey flat-roof structure positioned centrally within the linear-shaped plot. The car park is accessed off Hendre Road which lies adjacent to the northern boundary of the application site.

The application site sits within the corner plot between Hendre Road and Woodland Avenue which is characterised as a residential area with a mix of two storey semi-detached dwellings and bungalows. Almost all of the properties within the vicinity of the site have roughcast rendered elevations with concrete tiled roofs and white uPVC windows, doors and rainwater goods.

### **RELEVANT HISTORY**

<b>Application Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
P/03/1360/FUL	Two storey extension (nw elevation) and dormer window to bungalow (se elevation)	Refused	20/01/2004

P/04/268/FUL	Two storey extension to side of legion and dormer window to bungalow	Refused	01/03/2004
P/04/967/FUL	Two storey extension to side of legion and dormer window to bungalow	Refused (Allowed on Appeal)	14/09/2004
P/04/1304/FUL	Relocation of drop kerb	Unconditional Consent	29/10/2004
P/04/1554/FUL	Single storey extension consisting of office and meeting room (re-submission P/04/967/FUL)	Conditional Consent	04/01/2005
P/07/501/FUL	Awning for smokers with safety barrier in car park	Unconditional Consent	31/10/2007

### **REPRESENTATIONS RECEIVED**

This application has been advertised through direct neighbour notification of thirty-eight of the closest residential properties and through the erection of a site notice. The initial period for consultation expired on 16 April 2021.

One letter of support was received on 31 March 2021 from the occupiers of 11a Woodland Avenue, Pencoed.

A letter of support has also been received from Pencoed Contact Group who meet at the club on a regular basis. The response states that the proposed marquee would be of great benefit to the group.

Three letters of objection were received from the occupiers of 4 Woodland Avenue, 3 Woodland Avenue and Rose Cottage and 8 Heol-y-Geifr, generally objecting to the proposed development for the following reasons:

- The development should be a temporary measure in relation to Covid-19 restrictions and not a permanent change;
- The use of 1 Woodland Avenue is a change of use of the land and the club have encroached onto this land without the benefit of Planning consent;
- The proposal results in noise nuisance for neighbouring properties until 11pm closing time with bad language and anti-social behaviour. The marquee will not contain the noise;
- The visual impact of the marquee will be a distraction for road users;
- The impact of parking on Woodland Avenue will be detrimental to highway safety;
- Any lighting proposed will cause light pollution into the gardens of neighbouring properties;
- The development will decrease property value.

### **COMMENTS ON REPRESENTATIONS RECEIVED**

Factors to be taken into account in making Planning decisions must be Planning matters; that is, they must be relevant to the proposed development and the use of land in the public interest. The matters raised in the objections received are addressed below:

- *Temporary Measure*  
Restricting the development to being temporary to aid the Covid-19 economic recovery is considered in the appraisal section of the report.

- *Use of 1 Woodland Avenue, Pencoed*  
This is considered in the appraisal section of the report.
- *Noise Nuisance*  
The concerns raised by the neighbouring residents about patron noise, bad language and anti-social behaviour are noted, however, the concerns mostly relate to the noise emanating from patrons using the club and this is difficult to control/limit in Planning terms given that the applicant is not responsible for the behaviour of patrons and time constraints imposed upon a premises cannot control the behaviour of individuals who use and who leave the premises. Whilst the impact of the development on residential amenity will be considered in the appraisal section of the report, the objections raised in respect of bad language, noise and anti-social behaviour will not be addressed further as they are not matters which can be controlled through the Planning process.
- *Highway Safety*  
The impact of the development on highway and pedestrian safety is addressed in the appraisal section of this report.
- *Privacy and Amenity*  
The impact of the development on the levels of privacy currently afforded to residents of neighbouring occupiers is addressed in the appraisal section of the report.
- *Property Value*  
Property value is not a material Planning consideration and this objection is not considered further in the determination of this Planning application.

## CONSULTATION RESPONSES

### CONSULTEE

Highway Authority  
30 April 2021

### COMMENTS

Provided that the marquee is granted on a temporary basis and not used simultaneously with a fully utilised indoor area, the proposal is acceptable in highway safety terms.

## RELEVANT POLICIES

The relevant Policies and Supplementary Planning Guidance are highlighted below:

<b>Policy PLA1</b>	Settlement Hierarchy and Urban Management
<b>Policy SP2</b>	Design and Sustainable Place Making
<b>Policy SP3</b>	Strategic Transport Planning Principles
<b>Policy PLA6</b>	Development West of the Railway Line, Pencoed
<b>Policy PLA11</b>	Parking Standards
<b>Policy ENV9</b>	Development in Mineral Safeguarding Areas

### Supplementary Planning Guidance 17

Parking Standards

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

### Future Wales – The National Plan 2040

#### Planning Policy Wales Edition 11

#### Planning Policy Wales TAN 11

Noise

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

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

The well-being goals identified in the act are:

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

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

### **THE SOCIO ECONOMIC DUTY**

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

### **APPRAISAL**

This application is referred to the Development Control Committee to consider the objections raised by the residents of nearby properties.

### **USE OF THE LAND**

As detailed in the description of development above, the marquee is proposed to be erected within an area of land to the north west of Pencoed Social Club (British Legion) which forms the garden area of 1 Woodland Avenue, Pencoed, as shown below:



**OS Map Extract of Application Site**

For reference, the property known as 1 Woodland Avenue is within the ownership of Pencoed Social Club (British Legion) and is currently occupied by the Steward of the club. Objections have been raised in respect of this Planning application as the land to the north of 1 Woodland Avenue forms the garden area of the property and no Planning permission has been granted for the use of the land as a beer garden in connection with Pencoed Social Club (British Legion).

For the land to be considered lawful as part of the beer garden of Pencoed Social Club (British Legion) the applicant must prove on the balance of probability that the use of the land as a beer garden has continued for a period of 10 years or more, prior to the submission of the Planning application. The application was validated on 10 March 2021 and so the relevant 10 year period commenced on 10 March 2011.

The area of land to the north of the dwelling has been partially used in connection with club since at least 2001, as shown circled in red on the aerial image below:

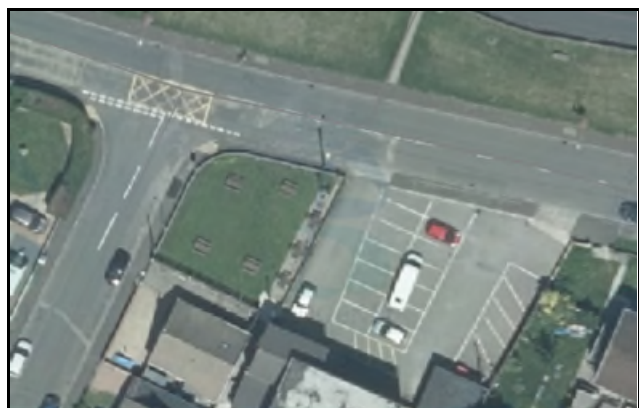


*Aerial Image 2001*

Having undertaken a review of aerial imagery it is clear that the area of land circled in red above has been continuously used as a beer garden since 2001. Since 2017, the aerial imagery and street view evidence suggests that the whole area of land has been used as a beer garden in connection with Pencoed Social Club (British Legion), as shown below:



*Aerial Image 2017*



*Aerial Image 2020*



*Google Image Street View (April, 2017)*



*Google Image Street View (May, 2018)*

In consideration of the above, the Authority cannot reasonably accept that the whole area of land has been used as a beer garden in connection with Pencoed Social Club (British Legion) for a period in excess of 10 years and therefore the use of the land is not formalised. As such, this Planning application will consider the acceptability of the use of the land to the north of the dwelling known as 1 Woodland Avenue as a beer garden used in connection with Pencoed Social Club (British Legion) and the erection of a marquee.

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

The 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”. Criterion (12) of Policy SP2 seeks to ensure that the viability and amenity of neighbouring uses and their users/occupiers are not adversely affected by development proposals and in addition seeks to ensure that an appropriate level of amenity is afforded to future occupiers of a development.

Although Supplementary Planning Guidance Note 02 Householder Development (SPG02) relates to household development, it is considered that the principles are applicable in this instance. Note 8 of SPG02 refers to amenity. It states at paragraph 5.1.1 “while an individual may accept a window box as sufficient garden space, the County Borough

Council believes that generally there should be a reasonable private outdoor area for enjoyment of the present and future households”.

The property known as 1 Woodland Avenue, forms a detached bungalow which principally faces the north and is finished with roughcast render elevations and a concrete tiled roof. The applicant has confirmed that the property is owned by Pencoed Social Club (British Legion) and is currently occupied by the Steward of the club.

Prior to the occupation of the land to the north of the dwelling as a beer garden, the property would have been located within the southern area of a corner plot between Hendre Road and Woodland Avenue, and would have benefitted from a relatively large amenity space to the front of the dwelling, similar to the dwelling known as 2 Woodland Avenue which is located on the opposite corner plot, as shown below:



***2 Woodland Avenue with amenity space to the front***

From reviewing street view images, it is clear that the plot associated with the dwelling at 1 Woodland Avenue has been physically sub-divided by a brick wall since at least August 2009, as shown below:



***Aerial Image (August, 2009)***

As per the guidance above, the Authority seeks to ensure that private outdoor areas for

enjoyment are provided for present and future occupiers of households. In this instance, it is clear that the land to the north of the dwelling which previously formed private garden space, has been sub-divided for an extensive period of time and on the balance of probabilities has not been used as private garden area by the occupiers of the property. It is clear that the occupiers of the property known as 1 Woodland Avenue have only benefitted from a very small, linear private amenity space at the rear of the property between 1 Woodland Avenue and 3 Woodland Avenue which measures around 15 square metres.

As the area has been sub-divided for a period of time, it is considered that the use of the land to the north of the dwelling as a beer garden in connection with the adjoining club does not result in the loss of private amenity space for the occupiers of the property known as 1 Woodland Avenue. The large private amenity space to the north of the dwelling was lost prior to August 2009 when the plot was sub-divided and a physical separation between the property boundary and the grassed area to the north was created.

It would be unreasonable for the Authority to consider that the use of the land as a beer garden in connection with Pencoed Social Club (British Legion) to the north of the dwelling known as 1 Woodland Avenue would result in a loss of amenity space for its occupiers, given that the land has been separated physically and not used as domestic garden space since at least August 2009. On balance, and with consideration to the evidence gathered by the Authority, it is considered that there will not be a loss of amenity space for the occupiers of the property known as 1 Woodland Avenue caused by the proposed use of land as a beer garden.

Whilst acknowledging that the occupiers of 1 Woodland Avenue will only benefit from a small private amenity space as a result of the formalisation of the land to the north as a beer garden, weight must be placed on the fact that the amenity space was lost prior to August 2009, a period of at least 12 years. On balance, and having regard to the above, the use of the land as a beer garden does not result in the loss of private amenity space for the occupiers of the property known as 1 Woodland Avenue, Pencoed.

## **RESIDENTIAL AMENITY**

The objections received raised concern about patron noise emanating from the beer garden and the proposed marquee. The objections raised which relate to patron noise are noted, however, the Planning system cannot be used to control the behaviour of individuals who use the premises as it is the responsibility of the individual to behave in an appropriate manner and noise disturbance is a matter for Public Protection. The applicant is not responsible for the behaviour of patrons and concerns raised which relate to bad language and anti-social behaviour when vacating the premises are matters to be raised with the Police as they cannot be controlled through the Planning system.

The Planning system must protect residential amenity and, therefore, notwithstanding the above, consideration is given to the impact of the use of the land as a beer garden on the residential amenities of residents within the immediate vicinity of the site. Paragraph 2.7 of PPW11 states “placemaking in development decisions happens at all levels and involves considerations at a global scale...down to the very local level, such as considering the amenity impact on neighbouring properties and people”.

The erection of a marquee is likely to enclose the existing level of noise emanating from the beer garden when in use and therefore it is likely that the noise levels experienced by nearby properties will be reduced overall. Pencoed Social Club (British Legion) has a restricted licence to operate within the beer garden from 12pm to 9:30pm to protect neighbouring residential amenity. To align the Planning consent with the licence, it is considered reasonable to impose a condition which limits the hours of operation of the



beer garden and marquee to 9:30pm.

Whilst the objections which refer to noise are noted, it is considered that the restricted hours controlled by the licence limit the impact of the beer garden on residential amenity and as no concerns have been raised by the Public Protection Section which relate to noise, the proposal is considered to be acceptable in this regard subject to the imposition of a Planning condition which limits the hours of operation to 9:30pm.

## **VISUAL AMENITY**

Policy SP2 of the Local Development Plan (2013) states “all development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment”. “Design should be of the highest quality possible, and should be appropriate in scale, size and prominence”.

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 area to be used for the erection of a marquee can be described as an unused garden space intended for use by the property known as 1 Woodland Avenue. The surrounding area is characterised by a mixture of two storey semi-detached dwellings and bungalows that predominantly have roughcast rendered elevations and concrete tiled roofs.

The installation of a galvanised steel framework with white heavy duty PVC cover is not considered to be in keeping with the general residential area, however, regard must be given to the relaxation of the permitted development rights under The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (Wales) Order 2021, which came into force on 30 April 2021. The relaxation of the permitted development rights allows the erection of moveable structures such as marquees for a temporary period of 56 days from 30 April 2021 to 3 January 2022. This means that despite the concerns raised about the visual impact of the marquee, it could be erected for a period of 56 (non-consecutive) days up to 3 January 2022 without requiring Planning consent.

In a letter dated 30 March 2021, the Welsh Government advised that Planning Authorities should “support the reopening of businesses and their efforts to create safe environments for the public to feel confident to return to the high street, hospitality and tourism sector”.

PPW11 states at paragraphs 2.22 and 2.23 that the Planning system should “ensure that a post-Covid world has people’s well-being at its heart” and that Planners play a “pivotal role...in shaping our society for the future”, prioritising placemaking, decarbonisation and well-being. As society emerges from the pandemic the needs of communities must be recognised and the Planning system has a role to play in ensuring development is appropriately located to provide both physical and mental health benefits, improve well-being and help to reduce inequality.

Whilst concerns are raised about the visual impact of the marquee, given the relaxed permitted development rights it is considered that Planning consent could be granted on a temporary basis to provide the club with the opportunity to offer a safe environment for patrons until a time whereby restrictions are eased and the public are confident to go back inside the hospitality venues. As advised in the letter dated 30 March 2021 “Authorities should seek to support businesses and organisations...to maximise their potential to operate over the forthcoming spring/summer months as coronavirus Covid-19 control measures are relaxed.” The letter advises that short-term permissions and conditions

should be used to manage Planning impacts which would be inappropriate on a permanent basis.

On balance, it is considered reasonable to grant Planning consent in this instance subject to the imposition of a Planning condition which restricts the consent to being temporary and which requires the removal of the marquee and all associated paraphernalia by 3 January 2022.

## **HIGHWAYS**

Turning to the impact of the development on highway safety, the existing highway network in Pencoed which forms part of the Pencoed - Pyle Transport Corridor is severely constrained by the mainline railway with no prospect of mitigation within the Local Development Plan period (2013-2021). In recognition of this constraint, Policy PLA6 introduces a moratorium on further development which generates a net increase in vehicular movement to the west of the railway line. It states *Development that will generate a net increase in vehicular traffic movement in Pencoed to the west of the railway line...will not be permitted.*

Any new development which generates a net increase in vehicular movement and will exacerbate congestion either side of the level-crossing and at the complex over-bridge junction between the eastern end of the relief road and Penybont Road will be considered as being contrary to the Local Development Plan (2013) and detrimental to highway safety.

The application site lies within the area identified under Policy PLA6 of the Local Development Plan (2013) and the proposed use of the land for a beer garden in connection with Pencoed Social Club (British Legion) and the erection of a marquee would, in normal circumstances, result in an objection being raised by the Highway Authority. However, in the letter referred to above, the Welsh Government stated "once restrictions upon the movement of people are relaxed and businesses begin to reopen, there is demonstrable need for measures to be put in place to create safe environments, both on private property and within the public realm....where the adverse Planning impacts are not significant, we do not want the Planning system to act as a barrier to recovery".

In consideration of the guidance issued by the Welsh Government, regard is given to supporting the recovery of the business as the Covid-19 restrictions ease and significant weight is given to the acceptability of the proposal on a temporary basis to aid in the economic recovery and demonstrate support to businesses.

The Highway Authority considers that if the proposal is granted on a temporary basis and the marquee is not used simultaneously with a fully-utilised indoor area, it would be difficult to quantify the effect of the marquee and its impact on the moratorium. Therefore, if conditions are imposed which seek to limit the marquee to being a temporary feature and link its use with a fully-utilised indoor area, the impact of the development on highway safety is considered to be negligible and not contrary to Policy PLA6 of the Local Development Plan (2013).

Subject to the imposition of the recommended Planning conditions, the proposed development is considered to be acceptable from a highway safety perspective.

## **CONCLUSION**

The key considerations in the acceptability of the development are the impact of the development on residential amenity, visual amenity and highway safety.

Having regard to the above, it is considered that, on balance, the proposal is acceptable in terms of residential amenity and would not result in the loss of amenity space for the occupiers of the property known as 1 Woodland Avenue given the amount of time that has elapsed since the land has been physically separated from the original residential plot. It would be unreasonable of the Authority to consider that the use of the land as a beer garden results in a loss of private amenity space and the proposal is therefore considered to be acceptable in this regard.

Turning to the impact on the residential amenities of neighbouring properties, regard has been given to the noise emanating from the beer garden and proposed marquee. No objection has been raised by Public Protection and weight has been given to the fact that the premises has a licence to operate within the beer garden area from 12pm to 9:30pm, seven days a week.

Therefore, subject to the imposition of a Planning condition which aligns the hours of operation of the beer garden and marquee to the existing licence, the development is not considered to be so detrimental to the amenities of neighbouring occupiers to warrant a refusal on such grounds.

Concern is raised about the visual impact of the development on the streetscene, however, in acknowledging the relaxation of permitted development rights, it is not reasonable to refuse the Planning application on such grounds owing to the guidance provided by Welsh Government in a letter dated 30 March 2021 which advises Authorities to take a relaxed stance to support economic recovery and aid businesses in the easing of Covid-19 restrictions.

To ensure the marquee does not detrimentally impact the visual amenities of the vicinity in the long-term, it is considered reasonable in this instance to impose a Planning condition which limits the Planning consent to being temporary, and which requires the removal of the marquee by 3 January, 2022.

Likewise, the impact of the development on highway safety and in particular on Policy PLA6 of the Local Development Plan (2013) is considered to be negligible if the consent is granted on a temporary basis and is restricted to prevent the marquee and a fully-utilised indoor space being used simultaneously. Subject to the imposition of the recommended Planning conditions, the proposed development is considered to be acceptable to the Local Planning Authority and is recommended for approval.

## **RECOMMENDATION**

(R11) That permission be GRANTED on a temporary basis, subject to the following condition(s):-

1. The development shall be carried out in accordance with the Block Plan received on 22 February 2021 and the Specifications received on 9 March 2021.

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

2. The temporary marquee shall be removed from the land on or before 3 January 2022.

Reason: To ensure the Authority retains effective control over the appearance and use of the site and to ensure that the marquee is removed at the end of the period of the temporary consent.

3. The beer garden and temporary marquee shall only be open to customers/patrons between 12:00 hours (midday) and 21:30 hours (9:30pm) on any day.

Reason: In the interests of protecting neighbouring residential amenity.

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

**Background Papers**

None