

APPEALS

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

APPEAL NO.	CAS-01413-L0P3D6 (1937)
APPLICATION NO.	P/20/933/FUL
APPELLANT	MR MARK NEWBOLD
SUBJECT OF APPEAL	RETENTION OF THE STATIONING & OPERATION OF AN A3 MOBILE HOT FOOD RETAIL UNIT: WARD JONES, HORSEFAIR ROAD, WATERTON INDUSTRIAL ESTATE, BRIDGEND
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION LEVEL	DELEGATED OFFICER
DECISION	THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE ALLOWED SUBJECT TO CONDITIONS

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

APPEAL NO.	CAS-01409-G4L2M2 (1938)
APPLICATION NO.	ENF/330/20/ACK
APPELLANT	MR MARK NEWBOLD
SUBJECT OF APPEAL	ALLEGED UNAUTHORISED BURGER VAN: WARD JONES, HORSEFAIR ROAD, WATERTON INDUSTRIAL ESTATE, BRIDGEND
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION LEVEL	ENFORCEMENT NOTICE
DECISION	THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE ALLOWED AND THE ENFORCEMENT NOTICE IS QUASHED.

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

RECOMMENDATION

That the report of the Corporate Director Communities be noted.

JANINE NIGHTINGALE - CORPORATE DIRECTOR COMMUNITIES
Background Papers (see application reference number)



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 28/03/22

gan Janine Townsley LLB (Hons)
Cyfreithiwr (Nad yw'n ymarfer)

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad: 13/07/2022

Appeal Decision

Site visit made on 28/03/22

by Janine Townsley LLB (Hons)
Solicitor (Non-practising)

an Inspector appointed by the Welsh
Ministers

Date: 13/07/2022

APPEAL A

Appeal Ref: CAS-01409-G4L2M2

Site address: Ward Jones Bridgend Ltd, Horsefair Road, Waterton Industrial Estate, Bridgend, CF31 3YN.

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act.
- The appeal is made by Mr Mark Newbold against an enforcement notice issued by Bridgend County Council.
- The enforcement notice, numbered ENF/330/20/ACK, was issued on 30 September 2021.
- The breach of planning control as alleged in the notice is "*Without planning permission, change of use of the said land from parking area associated with office to the stationing and operation of an A3 Mobile Hot Food Retail Unit.*"
- The requirements of the notice are:
"*Cease the use of the operation of the mobile hot food retail unit and remove the unit from the lane.*"
- The period for compliance with the requirements is two months from the date the Notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(a) and (g) of the Town and Country Planning Act 1990 as amended.

APPEAL B

Appeal Ref: CAS-01413-L0PD3D6

Site address: Ward Jones Bridgend Ltd, Horsefair Road, Waterton Industrial Estate, Bridgend, CF31 3YN.

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Mark Newbold against the decision of Bridgend County Council.
- The application Ref P/20/933/FUL, dated 18 November 2020, was refused by notice dated 20 August 2021.
- The development proposed is described in the application as the stationing and operation of an A3 mobile hot food retail unit.

Decision – Appeal A & B

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the change of use of the land for the stationing and operation of an A3 Mobile Hot Food Retail Unit at Ward Jones, Bridgend Ltd., Horsefair Road, Waterton Industrial Estate, Bridgend, CF31 3YN as shown as shown in the plan attached to the enforcement notice, subject to the conditions set out below:
 - 1) The use hereby permitted shall not be open to customers outside the following times:
07:00 hours to 14:30 hours Monday to Friday.
Reason: To ensure that the use remains complimentary to the commercial area. To comply with policy REG2 of the Bridgend Local Development Plan.
2. The appeal is allowed and planning permission is granted for the change of use of the land for the stationing and operation of an A3 Mobile Hot Food Retail Unit at Ward Jones, Bridgend Ltd., Horsefair Road, Waterton Industrial Estate, Bridgend, CF31 3YN, in accordance with the terms of the application ref: P/20/933/FUL dated 18 November 2020 and the plans submitted with it subject to the following conditions:
 - 1) The use hereby permitted shall not be open to customers outside the following times:
07:00 hours to 14:30 hours Monday to Friday.
Reason: To ensure that the use remains complimentary to the commercial area. To comply with policy REG2 of the Bridgend Local Development Plan.

Procedural Matter and Main Issue

3. The two appeals concern the change of use of the land for the siting of a mobile hot food unit. Since the main thrust of the Section 178 and 78 appeals is that planning permission should be granted for this change of use and the arguments concerning the merits of the development are the same, I have dealt with the ground (a) appeal and the appeal against the refusal of planning permission together. The description of development in the enforcement notice (EN) differs slightly from that in the planning application and for

the purposes of consistency I have adopted the description from the EN in my formal decision set out above.

4. In relation to both appeals, the appellant states that the development which has taken place, that is, the change of use of the appeal site for the siting of the mobile food unit ought to be granted planning permission. For each appeal the Council's concern related to the impact of the development on highway safety and parking. It follows therefore that the main issue for consideration is the effect of the development on highway safety with particular reference to access and parking.

Reasons

Appeal A Ground (a) and Appeal B

5. The appeal site falls within an industrial estate and comprises a car parking area adjacent to the Ward Jones Office building. The car park is hard surfaced but does not appear to have any delineated parking spaces. The site is bounded by palisade fencing and is accessed via a barrier which opens automatically for cars to access and egress. The office/ reception building was manned at the time of my visit allowing me vehicular access to the appeal site.
6. The site is approached via typical industrial estate roads. The site is adjacent to a Royal Mail depot and access from Horsefair Road leads to an access road which is shared between the appeal site and the Royal Mail depot, this means that those accessing and leaving the site would need to look out for any conflict with vehicles entering or leaving the Royal Mail depot but the barrier would slow them to a stop. I observed that the access is wide, visibility is good and the length of access from the main road to the appeal site and the Royal Mail depot is short.
7. Beyond the appeal is an CGI overflow car park. The surrounding land is in use as office car parking, locomotive storage yard, motorcycle training facility, and for the storage of containers, cars, vans, caravans, and campervans. These uses provide a number of opportunities for car parking, however, I do not consider that patrons of the mobile unit who arrive by car would choose to park anywhere other than adjacent to the unit for convenience. I have therefore not considered whether parking in the adjacent areas would be an option for patrons.
8. At the time of my visit (midday on a Monday) the site was quiet, I did not observe any customers and there were no other cars parked in the area adjacent to the food unit.
9. Dealing firstly with pedestrian access, the Council is satisfied that pedestrian access to the development is acceptable. There is nothing before me to question this position. The appellant has suggested that most customers of the food unit would be people working on the industrial estate who would walk to purchase food at the appeal site. I agree that at this location some customers are likely to arrive on foot and that it is unlikely that people drive to the site to use the mobile food unit as a discreet destination. Be that as it may, I consider that it is still likely that some customers will drive to the site from other locations within the industrial estate. It is therefore necessary to consider the impact of customers driving to the appeal site.
10. In relation to vehicular access, the Council's delegated officer report refers to highway safety concerns which relate to the access arrangements to the site adjacent to the Royal Mail depot and notes that the control barrier was secured by condition in response to highway safety concerns. Although the Council notes that there have been occasions when the control barrier at the site access has been removed or left up since the change of use, at the time of my visit the control barrier was operational. There is no reason to

suggest that any lapses in use of the barrier are due to the development. In any event, I am satisfied that visibility at this location is good. The mobile food unit is limited in size and for reasons stated above, I consider that the number of customers who would drive to the site to purchase food would be limited. No technical evidence has been presented by the Council in relation to junction visibility and for this and the above reasons, I am satisfied that there would be no unacceptable risk to highway safety in terms of access.

11. Turning to parking and the potential for indiscriminate parking to cause highway safety concerns, I note that all of the parking at the appeal site is intended for the Ward Jones offices. The Council's concern is the lack of separately allocated parking for the hot food unit would mean customers would need to park in an on-street location, likely in contravention of waiting and loading restrictions or along the access road leading to the site.
12. The Council's delegated report does not make any reference to parking concerns, however, the Council's appeal statement clarifies that the planning application for the Ward Jones office unit stated that six car parking spaces would be provided to serve 5 full time employees whereas the hot food unit lies adjacent to the parking for the consented office but does not provide for any dedicated off-street parking of its own. There is no suggestion that this parking provision was secured by planning condition nor is there any explanation as to whether this level of parking provision is necessary for the office. At the time of my visit, during office hours, no cars were parked in this area.
13. The Council acknowledges that their Supplementary Planning Guidance (SPG17 – Parking Standards) does not include any parking requirement for a mobile hot food unit. However, the Council states that it would be reasonable for the development to be considered against the standards for Hot Food Takeaways. In this regard they acknowledge that provision for delivery parking would be unnecessary due to the modest size of the unit but that parking for 1 staff member and customer spaces would be reasonable. Despite this, there is no policy or guidance standard for parking for the development before me and I find no conflict with LDP policy PLA11 which requires that all development should provide appropriate levels of parking.
14. I note the Council's concern that the development may encourage parking along the access road, however, due to the limited length of the road and the presence of the junctions to the appeal site and Royal Mail depot there would be very limited room for parking. Due to the modest scale of the development and for the reasons already stated I consider that car trips to the mobile food unit would be limited in number. Although there are no allocated parking spaces proposed, pressure for parking for the Ward Jones office building appears limited and the nature of the development is such that any customers arriving by car would not remain on site for a long period to allow relatively fast departure from the site. I note that there are parking restrictions in place along Horsefair Road, although for the reasons already stated I consider that the modest scale of the development and the potential for short term parking within the appeal site means it is unlikely that customers would be tempted to breach parking restrictions to purchase food.
15. Accordingly, I am satisfied that the development does not conflict with LDP policy SP3 which requires that all development should promote safe, sustainable and healthy forms of transport and for all of the above reasons the ground (a) appeal in relation to Appeal A and Appeal B should meet with success.

Appeal A - Ground (g)

16. As I have concluded that the ground (a) appeal in relation to Appeal A should be allowed, it is not necessary for me to consider the ground (g) appeal.

Conditions

17. The Council has suggested two planning conditions. I have included the suggested condition to restrict hours of operation of the hot food unit to 07:00-14:30 hrs Monday to Friday as this reflects the hours of operation put forward by the appellant and is necessary to demonstrate that the use of land is complimentary to the wider industrial estate.
18. The Council has requested a second condition which would require the provision of three parking spaces for the development. For the reasons set out above such a condition would not be possible to achieve, nor would it be necessary.

Conclusion

19. For the aforementioned reasons, and taking into account all matters raised, I conclude that both appeals should be allowed as set out in my formal decision at the commencement of this decision.
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.

Janine Townsley

Inspector