

REFERENCE: P/22/463/FUL

APPLICANT: G24 Ltd
10 Buckingham House, Station Road, Gerrard Cross, Bucks SI9 8FI

LOCATION: Kenfig Nature Reserve, Kenfig, Bridgend CF33 4PT

PROPOSAL: Installation of tickets kiosk machines x 3 and ANPR cameras, laying of CAT 6 and armoured cable to each car park kiosk/camera and reception

RECEIVED: 30 June 2022

APPLICATION/SITE DESCRIPTION

The application seeks retrospective consent for the installation of three parking meters/ticket kiosk machines and three ANPR cameras (Automatic Number Plate Recognition) along with the associated laying of power cabling to each car parking kiosk/camera and the main reception building at Kenfig Nature Reserve, Kenfig.

A number of signs have also been erected at the site in respect of the newly introduced parking fees at the car park(s) with a separate advertisement application (A/22/25/ADV refers) submitted in this regard.



Fig. 1 – Site Location Plan

As illustrated above (Figure 1), two of the kiosk machines have been sited within the established car parking areas at the site with a further machine sited directly alongside the main building on the site/visitor centre, facing toward the car parking space. The two kiosks sited within the car parking areas have been enclosed in small plastic cubicles with metal frames to provide weather protection, as illustrated in Figure 2, below. The cameras have been mounted on 4m high posts towards the entrance point of each car parking area as also illustrated below.





Fig. 2 – Photographs of Site

Supporting information submitted with the application explains that the cabling has been laid under paving slabs and along curb edges to minimise the visibility and reduce cutting. The cutting of the tarmac has also followed existing lines and the cable trench has not exceeded 4cm widths with depths of at least 10 cm.

Further information submitted in support of the application by the Chairman of the Trustees of Kenfig highlights that, as the Trustees, they are the managers and the custodians of the Land in Kenfig Nature Reserve.

The owners are the Charity Commission who entrust the Trustees/management to manage the land via a management document called 'The Scheme'. The Scheme is to ensure the Reserve is managed as best it can in the interests of all parties. The Trustees have recognised that without the difficult decision to put in car park charges, there are insufficient funds to keep the Reserve open and it would have to close. The Trustees consider this would be more detrimental to the Parish than paying for charges.

Furthermore, the Trustees consider the inability to fulfil the management agreements with Natural Resources Wales would result in a catastrophic decline and the eventual loss of some endangered species that live at the SSSI site... *"We want to do everything we can to support a smooth transition to planning approval so we can continue to protect the finances that are required to keep open this wonderful SSSI site that we all enjoy."*

The application site comprises the large car parking areas associated with Kenfig National Nature Reserve/Kenfig Visitor Centre that is situated within the countryside of Kenfig, near Pyle. The car parking areas are largely flat areas defined by tarmac areas and concrete/grasscrete parking spaces. The main visitor centre building is situated beyond the car parking spaces to the west, south-west of the site. A number of Public Rights of Way cross the site. There are a number of residential properties situated to the east of the site beyond the main public highway and points of vehicle access to the car parking areas.

The application site sits within a Special Landscape Area and the National Nature Reserve although, as illustrated below, the car parking areas largely fall outside the identified boundaries of the Site of Special Scientific Interest (SSSI) and the Special Area of Conservation (SAC) (hatched red areas).

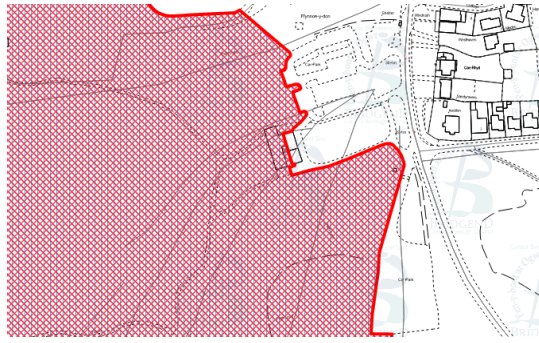


Fig. 3 – SSSI and SAC

RELEVANT HISTORY

A/22/25/ADV - Non-illuminated pole mounted parking signs
Pending

P/21/327/FUL - Alterations and adaptations to form a cafe area
Conditional Consent 21/07/2022

P/05/824/BCB – Extension to Visitor Centre
Conditional Consent 05/08/2005.

P/04/1528 – Extension to Nature Centre
Approved 01/02/2005.

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.

CONSULTATION RESPONSES

Cornelly Community Council

- The members of Cornelly Community Council wish to submit the following objections to the above mentioned planning application:
- The site of the application is a National Nature Reserve (NNR), a site of Special Scientific Interest (SSSI) and a Special Area of Conservation (SAC). The number, height and appearance of the posts that have been installed to date, in particular those erected to display parking notices, is excessive. The poles, signage and kiosks related to this application have an adverse effect on the character and appearance of a conservation area.
- Visitors to the Nature Reserve may refuse to pay parking fees, as there is currently local debate upon the status of the car park as common land. Also, some people may not have the means to pay by debit or credit card, which it is believed will be the only payment method available. These issues will mean displacement of vehicles to local streets, grass verges and pavements, causing obstruction and presenting a road safety hazard for pedestrians and drivers. Vehicles parked either side of the junction would be especially problematic as vision both into and out of the junction will be impaired, presenting a road safety hazard.
- It should be noted that during the COVID19 pandemic, when the car park at the reserve was cordoned off to prevent people visiting the site illegally, there were major problems with displacement of vehicles in and around the Kenfig area, necessitating a police presence in the area on a daily basis.

Natural Resources Wales (NRW)

We have no objection to the proposed development as submitted and provide the following advice.

Protected Sites

The application site is within the Kenfig Site of Special Scientific Interest (SSSI) and Kenfig Special Area of Conservation (SAC). We consider that, given the small scale and the nature of the development, that the proposed development is not likely to damage the features for which the SSSI and SAC are of special interest.

Protected Species – Bats and Great Crested Newt

We note the presence of bats and great crested newts (GCN) within vicinity of the site. We recommend you seek the advice of your in-house ecologist to determine if there is a reasonable likelihood of bats or GCN, both of which are a European Protected Species, being present within the application site. If so, in accordance with Technical Advice Note 5: Nature Conservation and Planning (paragraph 6.2.2) a species survey may be required. Any survey should be carried out in accordance with best practice guidance, for example 'Bat Surveys; Good Practice Guidelines 3rd Edition' published by the Bat Conservation Trust 2016.

An advisory note is requested in respect of pollution prevention.

Highways

It is considered that there is potential for concerns and complaints with regard the application due to visitors undertaking inappropriate parking and also reversing manoeuvres onto the live carriageway to the detriment of highway safety.

Notwithstanding this it is recognised that the nature reserve car park has existed as a car park for a considerable time and as such is a lawful use for parking. It is understood that charging for parking does not constitute a change in the land use and as such there is no requirement for further planning consent in this respect. As such any concerns in respect of instances of drivers seeking alternative parking (potentially inappropriately on the highway network) cannot be reasonably considered as part of this proposal. Furthermore it is noted that in order to reduce the instances of drivers stopping at the entrances and reversing onto the main highway through Kenfig the applicant is prepared to give a grace period of 10 minutes which will allow vehicles to enter and exit without incurring an excess charge. Suitable signage is being proposed under the accompanying application Ref A/22/25/ADV.

Given the above the highway merits of the application are considered purely in terms of the impact of the physical elements or the proposal (CCTV cameras, pay stations and associated cabling). These features are standard fare in a car park and their provision does not affect the safety of the access points onto the highway or indeed alter the number of parking spaces and accordingly observations of no objection are considered to be appropriate in this case.

REPRESENTATIONS RECEIVED

A total of 25 objections/letters of representation have been received in respect of the Planning application following the neighbour consultation exercise and advertisement of the Planning application. The objections and comments raised are summarised as follows:

Trustees' Rights

- The land forming the application is Common Land and as such, must have consent from the Secretary of State for Wales for 'Change of Designation' BEFORE consent can be considered
- A trust shouldn't be able to charge for parking
- The application documents and attached photographs show signage indicating the land is 'PRIVATE LAND' - this is totally incorrect.

- At the present moment in time, an ongoing investigation into the activities of the KCT and the appointment of the board of trustees is currently underway and until that investigation process has been concluded there is no guarantee that the current board of trustees have the legal right to give their permission for this development to take place. On this point alone this planning application needs to be set aside until the results of the ongoing investigation have been arrived at and been published.
- How can a trust authorize a "for" profit private concern and seek to implement a business initiative on the site.
- The trustees have not bothered to follow due process and the parking machines, notices and cameras have already been installed and have been working since August 2022 with charges are being enforced before planning has been approved.

Legalities

- This planning application has been inadequately advertised to the general public and not advertised on the Council's website.
- A Section 38 application should be made to allow the developers to carry out works on Common Land. Given the absence of any Section 38 permission being in place none of the works that have taken place so far to date should have been undertaken.
- There are a set of Bye Laws which are legally in force at the Kenfig Site. These Bye Laws came into effect on the 15th May 1990 and they were put in place by BCBC's predecessors Mid-Glamorgan County Council. Whilst these Bye Laws may well appear to be archaic they are still in place and they are dealt with via the local magistrates courts and the maximum fine for breaking any of the Bye Laws appears to be £500. Specifically, Bye Law 21 appears to prohibit the use of the ANPR cameras that are required as a key part of the infrastructure of the proposed planning application. The question needs to be asked if BCBC were to approve planning permission for this development would BCBC then become co-defendants in breaking the Bye Law.
- Legality of the land and whether the trust is actually 'allowed' to charge for this car parking facility.
- The site comprises common land and from the High Court Ruling in 1971 is held in trust for residents to use freely. The Charity Commission Bylaws also clearly state that no cameras are to be erected on any of the land. Also, any monies raised on the reserve must not leave the parish. As G24 Ltd is a registered company in Buckinghamshire this breaches the High Court ruling and the Bylaws, making it illegal.
- It appears that the Trustees of Kenfig Corporation are trying to reclassify the Common Land as Private Land without any regard to the legality of such actions, including, but not limited to, the Bye Laws and High Court Ruling.
- Incorrect Certificate being served.

Visual Amenity

- There is absolutely no mention in the application of the 'forest' of galvanised steel posts that have already been erected around the whole of each parking zone, they are a ghastly intrusion into what is a National Nature Reserve and more importantly, a Site of Special Scientific Interest.
- The visual impact of the project is totally out of keeping with the ethos of a Nature Reserve and it presents a very intimidating outlook to drive into the car park. This application has turned the history of Kenfig back to the early 1940s when the US Infantry had a training base at Kenfig.
- The site, subject of the application is a National Nature Reserve (NNR), a site of Special Scientific Interest (SSSI) and a Special Area of Conservation (SAC), I

consider the number, height and appearance of the posts that have been installed and in particular those to carry parking notices is excessive. The poles, signage and kiosks installed as part of this application have an adverse effect on the character and appearance of the area.

- Development is an eyesore and not at all pleasing
- The plethora of signs, posts and ancillary equipment are an invasive intrusion into a nationally important SSSI, and National Nature Reserve and are a truly ghastly addition to the Reserve and should be removed immediately.
- The structures, posts, signs and kiosks have an adverse effect on the character and appearance of a conservation area.
- Structures do not blend with their surroundings and a greener solution should be found with the structures having an undesirable impact on the surroundings.
- This beautiful place has been free to park for generations and it should not be allowed to install these hideous parking meters in an area of absolute beauty. To do this in the current financial crisis is absurd.

Ecology

- The application makes no mention of the bee orchids which have been spotted and recorded in the grassed areas outside the Reserve building for many years.
- The location as its name shows is a nature reserve, the area from road to beach is one of the very few unspoilt areas of beauty in the immediate vicinity, a complete rural getaway from roads, buildings, telecoms masts and electronic equipment installations, I'd like to see it remain as a natural haven and not see its boundaries pushed so that the land that holds the flora and fauna progressively diminished. It is a small treasure in keeping its simple surroundings. The nearer it can be kept to a natural habitat without adding machines and telecoms the better.

Highway Safety

- Adverse impact on highway safety with vehicles now parking in the streets around the site.
- Oppose the application on the grounds of the obstruction that this will create on the highways surrounding the proposed site. There are strong indications that the majority of the public will not use the car park if they have to pay and will use the public highways. I noted an increase of members of the public parking on grass verges and on the highway surrounding the car park when the charges to the proposed site were brought into force on 24/09/2022.
- There is no bus service through Kenfig and no suitable paths in KENFIG. Therefore those wishing to walk to the area are forced to walk on the main road. The dangers of this are that when the public are parked on grass verges surrounding the site, those wishing to walk to Kenfig are forced to walk in the road. If this proposal is granted there will be risk to the public, both those using vehicles and those on foot.
- The proposal would result in more on street parking in the area and measures should be put in place to address this. The parking on the pavement in front of properties (an adopted highway) and on the grass verges neighbouring the site is an offence derived from Section 72 of the Highways Act and Section 34 of the Road Traffic Act. The proposals contained in the application will undoubtedly encourage continued and further unlawful car parking to occur. The Trust should accept responsibility for its actions and implement remedial measures itself rather than pass responsibility for enforcement action on to the Local Authority. Consequently, consent should not be granted without it being made a condition of that consent that alleviation measures be implemented effectively in the surrounding vicinity before the parking charges are introduced.
- Those who 'use' the car park are dog walkers, horse riders, walkers, those using Kenfig Pool, those using Sker Beach, birdwatchers, naturists aswell as some social

meetings. Those users are able to park in the car parks completely free. When a charge is levied, those users are likely to seek alternative parking areas if they still wish to continue to use the area. A place near enough, and convenient enough, and the next best thing is the streets and verges of Kenfig.

- Scheme would result in cars parked in inappropriate places. There are horses and animals in the surrounding countryside, so vehicles for horses regularly move through to get to the fields where the horses and other animals live. There are many horse riders, and crowded parking on the verges and roads poses an additional danger to those. The Farmlands need to be accessible to large farm vehicles, trailers, tractors, combine harvesters, to bring animals and crops, land and animal tending, in and out of Kenfig, this is a daily occurrence. These vehicles cannot navigate parked cars and blocked roads easily.
- Knock on effect of displacing cars onto the highway.
- People won't want to pay for the cost of parking in Kenfig as they have never been required to do so in all the years the car parks have been there and will therefore park in Heol Ton making it dangerous for residents using their drives, as proven in lock down.

General

- Residents have not received any chance to object to the land being used as a car park.
- A condition of the lease highlights that all monies raised from parking must be retained and contributed towards the upkeep of the Reserve.
- Any money generated is meant to be given back to the community, we have not been explained how the 'car park' fees and their inevitable fines from non-payer or late payers will even come back to the community funds.
- Charging to park will put this life and health giving common land out of reach of the common people - the only beneficiaries are the car park machine company.
- Object to the installation of parking meters on common land and to victimise people who just want to enjoy the countryside - once again the motorist has to pay to park its wrong.
- Morally wrong to charge the public to use Kenfig dunes and nature reserve. The general South Wales public should have the right to freely travel to this area for exercise and family days out. In these already financially challenging times it seems absurd that companies want to make profit out of this without putting the money back into the reserve. It will detract people from visiting and slow passing trade for businesses who have stalls there.
- It is likely to deter people from visiting the area and hence deter tourism and business coming to the area.
- Poor management of the site by the trust and are they really fit to run this operation.
- Facility should not be lost to the community because of costs.

COMMENTS ON REPRESENTATIONS RECEIVED

Section 70(2) of the Town & Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicate that to the extent that Development Plan policies are material to an application for Planning permission, the decision must be taken in accordance with the Development Plan unless there are material considerations that indicate otherwise.

With respect to the Certificate, the land ownership was raised with the applicant and on 25 October 2022 the correct Certificate was submitted, however, Trustees rights, the morality and legality of the works and the charging of persons to park are not matters which can be considered by a Planning application as they are not material to the use of land for Planning purposes. There is no change to the land use of the site as a car park. In this

case the material considerations will include visual amenity, ecology and highway safety/parking and these matters are considered in the Appraisal section below.

RELEVANT POLICIES

The relevant Policies and Supplementary Planning Guidance are highlighted below:

| | |
|---|---|
| Policy PLA1 | Settlement Hierarchy and Urban Management |
| Policy SP2 | Design and Sustainable Place Making |
| Policy SP4 | Conservation and Enhancement of the Natural Environment |
| Policy SP5 | Conservation of the Built and Historic Environment |
| Policy ENV1 | Development in the Countryside |
| Policy ENV3 | Special Landscape Areas |
| Supplementary Planning Guidance 19 | Biodiversity and Development |

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 5 | Nature Conservation and Planning |
| Planning Policy Wales TAN 6 | Planning for Sustainable Rural Communities |
| Planning Policy Wales TAN 12 | Design |

Well-being of Future Generations 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

The application is referred to the Development Control Committee to consider the objections received from local residents and the wider public against the proposal.

As referred to above, the application seeks retrospective permission for the siting of car

parking kiosks and cameras and associated power cabling at the established car parking area associated with Kenfig Nature Reserve, Kenfig.

Key material Planning considerations in the determination of this application are the principle of the development, the impact on visual and residential amenities, the impact on pedestrian and highway safety and the biodiversity/ecological implications of the scheme.

Principle of the development

The site is located outside of any settlement boundary as defined by Policy PLA1 Settlement Hierarchy and Urban Management of the Bridgend Local Development Plan (LDP) adopted 2013 and is, therefore, located in the countryside where Policy ENV1 Development in the Countryside of the LDP ensures that development is strictly controlled. Development may be acceptable where it can meet one of the following ten criteria:

- 1) Agriculture and/or forestry purposes;
- 2) The winning and working of minerals;
- 3) Appropriate rural enterprises where a countryside location is necessary for the development;
- 4) The implementation of an appropriate rural enterprise/farm diversification project;
- 5) Land reclamation purposes;
- 6) Transportation and/or utilities infrastructure;
- 7) The suitable conversion of, and limited extension to, existing structurally sound rural buildings where the development is modest in scale and clearly subordinate to the original structure;
- 8) The direct replacement of an existing dwelling;
- 9) Outdoor recreational and sporting activities; or
- 10) The provision of Gypsy traveller accommodation.

Where development is acceptable in principle in the countryside it should where possible, utilise existing buildings and previously developed land and/or have an appropriate scale, form and detail for its context.

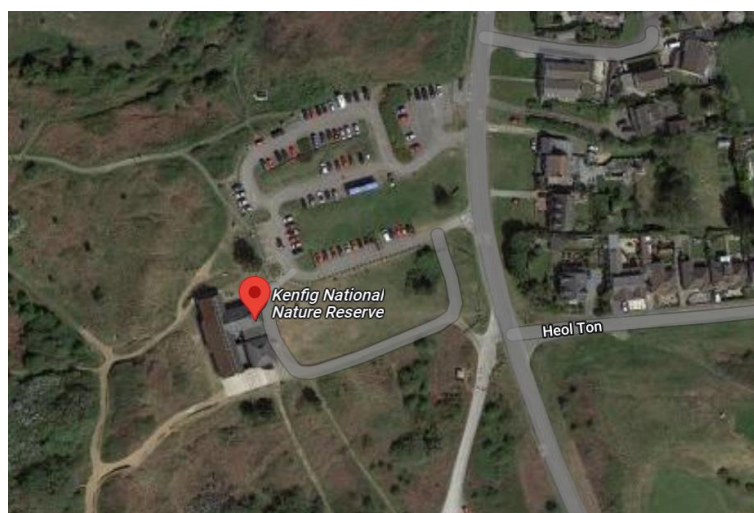


Fig. 4 – Aerial View of Site

LDP Policy ENV1 seeks to protect the integrity and openness of the countryside and prevent inappropriate forms of development. The development proposal seeks the installation of 3 car parking kiosk machines and ANPR cameras along with the laying of CAT 6 and armoured cable to each car park kiosk/camera and reception. Whilst the scheme does not strictly fall into any of the criteria set out by Policy ENV1, the proposal is located within a historically established use and is considered to have no substantial or

negative impact upon the countryside. The scheme comprises relatively small-scale modest structures erected on previously developed land within the boundaries of this established car parking area. The proposal has resulted in no material change of use of the land with the land use remaining as a car park. As such, the principle of the development can be supported in planning terms in this case.

Visual Impact

PPW11 states at paragraph 3.9 that “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”.

Policy SP2 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”. “Design should be of the highest quality possible, and should be appropriate in scale, size and prominence”.

Having regard to the above, this retrospective application is considered to comprise appropriately scaled structures which have a minimal impact on the surrounding area and as such are acceptable from a visual perspective within this environment.



It is acknowledged the site is situated within the ‘Kenfig Burrows’ Special Landscape Area (SLA) where Policy ENV3 (9) states that development will only be permitted where:

1. It retains or enhances the character and distinctiveness of the SLA;
2. The design of the development reflects the building traditions of the locality in its form, materials and details, and or assimilates itself into the wider landscape; and
3. The proposed development is accompanied by a landscape assessment which takes into account the impact of the development and sets out proposals to mitigate any adverse effects.

The settings of SLAs will be protected with consideration of the views from those areas to the settlements of the County Borough. New development within settlements should be designed to provide an attractive transition between the urban area and the countryside. In this case given the modest and small-scale nature of the physical changes undertaken and added to this established large scale car park, it is considered the scheme does not adversely impact on the qualities and character of the wider SLA.



Fig. 5 – Internal Site Photographs

In addition, the site lies within the National Nature Reserve of Kenfig Pool & Dunes (SP4(3)). LDP Policy SP4 seeks to prevent inappropriate development which directly or indirectly impacts upon areas having a high and or unique environmental quality. Development proposals will not be permitted where they have an adverse impact upon:

- The integrity of the County Borough’s countryside;
- The character of its landscape;
- Its biodiversity and habitats; and
- The quality of its natural resources including water, air and soil.

Given the modest and small-scale nature of the physical changes undertaken and added to this established large scale car park, it is considered the scheme does not significantly impact on the character of its landscape, its biodiversity and habitats or the quality of its natural resources including water, air and soil.



Fig. 6 – More Photographs of the Site

Residential Amenity

The development site is set in a relatively remote location in the countryside and therefore raises no serious residential amenity or privacy concerns. There is a cluster of properties situated towards the east of the site although these are offset from the new development such as to experience no serious loss of amenity and privacy, particularly in comparison to those previously enjoyed in the locality prior to the installation of the structures.

The letters of objection received in respect of the development raised comments with regard to the appearance of the kiosks rather than any concerns with any direct loss of privacy or amenity as a result of the scheme.

In summary, given the position of the development site and the very nature of the scheme, no concerns are raised which relate to neighbouring amenity.

Highway Safety

The Highways Officer has carefully considered the proposal and advises that there is potential for concerns and complaints due to visitors undertaking inappropriate parking and also reversing manoeuvres onto the live carriageway to the detriment of highway safety. However, it is recognised that the Nature Reserve car park has existed as a car park for a considerable period of time and, as such, is lawfully used for parking.

The Highways Officer acknowledges that charging for parking does not constitute a change in the land use and as such there is no requirement for further Planning consent in this respect and any concerns in respect of instances of drivers seeking alternative parking (potentially inappropriately on the highway network) cannot be reasonably considered as part of this proposal.

Furthermore, the Highways Officer notes that in order to reduce the instances of drivers stopping at the entrances and reversing onto the main highway through Kenfig, the applicant is prepared to give a grace period of 10 minutes which will allow vehicles to enter and exit without incurring an excess charge and suitable signage is being proposed under the accompanying application Ref A/22/25/ADV to advise in this respect.

Given the above the highway merits of the application have been considered purely in terms of the impact of the physical elements of the proposal (CCTV cameras, pay stations and associated cabling). These features are standard fare in a car park and their provision does not affect the safety of the access points onto the highway or indeed alter the number of parking spaces and accordingly, the observations are considered to be appropriate in this case.

Ecology/Biodiversity Impact

Section 40 of the Natural Environment and Rural Communities Act 2006 states that 'every public authority must, in exercising its function, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. This "duty to conserve biodiversity" has been replaced by a "biodiversity and resilience of ecosystems duty" under Section 6 of the Environment (Wales) Act 2016 which came into force on 21 March 2016.

Section 6 (1) states that "a public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions." Section 6(2) goes on to state that "In complying with subsection (1), a public authority must take account of the resilience of ecosystems, in particular (a) diversity between and within ecosystems; (b) the connections between and within ecosystems; (c) the scale of ecosystems; (d) the condition of ecosystems (including their structure and functioning); and (e) the adaptability of ecosystems."

Regulation 9 of the Conservation of Habitats & Species Regulations 2010 requires Local Planning Authorities to take account of the presence of European Protected Species at development sites. If they are present and affected by the development proposals, the Local Planning Authority must establish whether "the three tests" have been met, prior to determining the application. The three tests that must be satisfied are:

1. That the development is "in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment".
2. That there is "no satisfactory alternative"
3. That the derogation is "not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range"

The application site is situated within the National Nature Reserve of Kenfig Pool & Dunes (SP4(3)) with LDP policies seeking to prevent inappropriate development which directly or indirectly impacts upon areas having a high and or unique environmental quality (the car parking area is also outside but adjacent to the Special Area of Conservation of Kenfig (SP4(1)), and the SSSI of Kenfig (SP4(2)).

In recognition of the above, and the status of the application site, consultation on the application has been undertaken with both Natural Resources Wales and the Council's Ecologist who both, raise no objection against the application.

Natural Resources Wales (NRW) highlight that given the small scale and the nature of the development, the proposed development is not likely to damage the features for which the SSSI and SAC are of special interest. The Council's Ecologist has nothing to add to the comments of NRW.

On the basis of the above, the proposal is considered to comply with the requirements of the Habitats Regulations 1994 (as amended), Section 6 of the Environment (Wales) Act 2016, guidance contained within TAN 5: Nature Conservation and Planning (2009) and relevant LDP policies.

Other Matters

The scheme, given its nature and scale raises no adverse land drainage concerns and has no adverse implications for the Public Rights of Way that cross the site.

The site is also located within an Archaeological Sensitive Area of Kenfig and Mawdlam as defined by Policy SP5(4) Sites or Areas of Archaeological Significance of the LDP and within an Historic Landscape of Kenfig and Margam Burrows as defined by Policy SP5(5) Historic Landscapes, Parks and Gardens of the LDP. Policy SP5 states that development should conserve, preserve or enhance the built and historic environment of the County Borough and its setting. Development proposals will only be permitted where it can be demonstrated that they will not have a significant adverse impact.

Glamorgan Gwent Archaeological Trust has been consulted on the scheme and whilst to date no comments have been received, it is considered that the development does not have a significant adverse impact on the area.

CONCLUSION

Having regard to the above and the nature of the objections to the scheme, on balance, the development is considered acceptable from a Strategic Planning perspective and compliant with Policies ENV3(6), SP4(3), SP5(4), SP5(5) and SP2 of the Local Development Plan.

As such, this application is recommended for approval because the development complies with Council policy and guidelines and raises no 'in-principle' concerns, does not adversely affect the character of the application site or wider countryside setting, prejudice highway safety, privacy or visual amenities nor so significantly harm neighbours' amenities. The proposal is also considered to have no adverse impact on biodiversity.

The concerns raised by a number of residents are acknowledged however, Trustees rights, the morality and legality of the works and the charging of persons to park are not matters which can be considered by a Planning application as they are not material to the use of land for Planning purposes. Their comments/objections in respect of material considerations have been addressed above and it is considered that in this case they don't outweigh other material considerations to justify a refusal of Planning permission.

Furthermore, the proposal can be supported as it would not detrimentally impact the National Nature Reserve and, on balance, is considered a scheme that raises no serious or material Planning issues to justify refusal of the development.

RECOMMENDATION

(R64) That permission be GRANTED subject to the following condition(s):-

1. Within 1 month of the date of this consent the development shall be carried out in strict accordance with the details included in the updated Site Evaluation Sheet for Kenfig Nature Reserve (undertaken by Andrius Savelskis on 10 October 2022) received 25 October 2022 and the development shall be retained and maintained as such in perpetuity.

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

2. No charge shall be imposed on any vehicle which enters the car park and which leaves the car park within 10 minutes of original entry.

Reason: For the avoidance of doubt and to ensure a satisfactory form of development.

3. * THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS *
 - a. The development is considered acceptable from a Strategic Planning perspective and compliant with Policies ENV3(6), SP4(3), SP5(4), SP5(5) and SP2 of the Local Development Plan. As such, this application is recommended for approval because the development complies with Council policy and guidelines and raises no 'in-principle' concerns, does not adversely affect the character of the application site or wider countryside setting, prejudice highway safety, privacy or visual amenities nor so significantly harm neighbours' amenities. The proposal is also considered to have no adverse impact on biodiversity.

The concerns raised by a number of residents are acknowledged however, Trustees rights, the morality and legality of the works and the charging of persons to park are not matters which can be considered by a Planning application as they are not material to the use of land for Planning purposes and their comments/objections in respect of material considerations have been addressed above and it is considered that in this case they don't outweigh other material considerations to justify a refusal of Planning permission.

Furthermore, the proposal can be supported as it would not detrimentally impact the National Nature Reserve and on balance is considered a scheme that raises no serious or material Planning issues to justify refusal of the development.

- b. The developer is advised that during any construction phase any precaution to prevent contamination of surface water drains and local watercourses should be taken. Oils and chemicals should be stored in bunded areas and spill kits should be readily available in case of accidental spillages. For further guidance please

refer to GPP 5 and PPG 6 at the following link:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

JANINE NIGHTINGALE
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Background Papers

None