

APPEALS

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

APPEAL NO.	CAS-02289-T3Y1C3 (1973)
APPLICATION NO.	P/21/968/OUT
APPELLANT	MR PAUL EVANS
SUBJECT OF APPEAL	OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT FOR 15 DWELLINGS WITH APPROVAL FOR ACCESS: LAND ADJACENT TO TONDU ROAD, NORTH OF PASCOES AVENUE, BRIDGEND
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION LEVEL	DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposed development, by reason of its scale, siting and design, would constitute an overdevelopment of the site as it is too restricted to accommodate the number of dwellings of the scale parameters identified in the application submission consistent with generally accepted standards of space about new residential development contrary to Policy SP2 of the Bridgend Local Development Plan and advice contained within Planning Policy Wales (Edition 11, February 2021).
2. The proposed development is in a location that is not accessible by a range of different transport modes and will rely on the use of the private motor vehicle. As such it does not accord with national planning policy and advice contained within Planning Policy Wales (Edition 11, February 2021)
3. The proposed development, by reason of its location, scale, siting and design, fails to provide a satisfactory means of access to serve the traffic generated by the proposed development and will likely generate vehicular 'U' turn movements to or from the public highway, creating further traffic hazards to the detriment of highway safety along the adjoining A4063 Tondu Road contrary to the provisions of Policies SP2, SP3 and PLA5 of the Bridgend Local Development Plan and advice contained in Planning Policy Wales (Edition 11, February 2021).
4. The proposed development, by reason of the requirement to fell a number of protected trees, would adversely affect the amenity of the area and biodiversity characteristics of the site and the identified Site of Importance for Nature Conservation (SINC) known as Cefn Glass Wood (Graig-y-Casnewydd), contrary to the provisions of Policies ENV4, ENV5 and ENV6 of the Local Development Plan (2013) and guidance contained within Supplementary Planning Guidance 19 (Biodiversity and Development).

APPEAL NO.	CAS-02592-K3Y2Z3 (1985)
APPLICATION NO.	P/22/755/FUL
APPELLANT	MR N EVANS
SUBJECT OF APPEAL	ROOF TOP EXTENSION (REVISED) (RESUBMISSION OF P/22/152/FUL): 11 REST BAY CLOSE, PORTHCAWL
PROCEDURE	HOUSEHOLDER

DECISION LEVEL **DELEGATED OFFICER**

The application was refused for the following reasons:

1. The proposed roof extension, by virtue of its scale and location, represents an excessive form of development that would be detrimental to the character and appearance of the host dwellinghouse and out of keeping with the immediate area, contrary to Policy SP2 of the Local Development Plan (2013), Supplementary Planning Guidance Note 02 Householder Development and advice contained within Planning Policy Wales (Edition 11, February 2021).
2. The proposed development, by reason of its scale, orientation and design, would result in an excessive overlooking impact on the adjoining property to the north, resulting in a significant loss of residential amenity through a loss of privacy, contrary to Policy SP2 of the Local Development Plan (2013), Supplementary Planning Guidance Note 02 Householder Development and Paragraph 2.7 of Planning Policy Wales (Edition 11, February 2021).

APPEAL NO. **CAS-02312-F4Q3P4 (1975)**
APPLICATION NO. **P/22/309/FUL**

APPELLANT **MR & MRS JONES**

SUBJECT OF APPEAL **DEMOLISH EXISTING BUNGALOW AND CONSTRUCT 10 NEW APARTMENTS WITH ASSOCIATED PARKING AND AMENITIES: 2 LOCKS COMMON ROAD, PORTHCAWL**

PROCEDURE **WRITTEN REPRESENTATIONS**

DECISION LEVEL **DELEGATED OFFICER**

The application was refused for the following reasons:

1. The proposed development, by reason of its design, scale and type, represents the overdevelopment of the site and fails to provide sufficient useable and private amenity space within the site to serve the future occupiers of the two and three bed units, and therefore fails to provide an acceptable living environment for the future occupiers of the residential units, contrary to Policy SP2 of the Local Development Plan (2013) and advice contained within Supplementary Planning Guidance Note 02 Householder Development (2008) and Planning Policy Wales (Edition 11, February 2021).
2. The proposed development, by reason of its design, scale and type, represents the overdevelopment of the site and fails to provide sufficient on-site parking provision leading to indiscriminate parking close to the junction between the private road and Severn Road and the potential for vehicular and pedestrian conflicts to the detriment of highways safety within and around the site. The development is proposed to be accessed off a private road that is not constructed to adoptable standards and it is Council policy not to allow more than 5 or 6 dwellings to be accessed off an unadopted road. The scheme is therefore contrary to Policies SP2 and SP3 of the Local Development Plan (2013), SPG17 – Parking Standards and advice contained within Planning Policy Wales 11 (2021).

3. The proposed development, by reason of its design, size, scale and prominence, results in a scheme that is not in keeping with the local vernacular and the immediate context by way of oversized dormer windows and bulky flat roofed vertical features and is therefore detrimental to the visual amenities of the area and the character of the streetscene. The scheme is therefore contrary to Policy SP2 of the Local Development Plan (2013) and advice contained within Planning Policy Wales 11 (2021) and Building Better Places - The Planning System Delivering Resilient and Brighter Futures (July 2020).

4. The proposed development, by reason of its design, orientation, scale and size, fails to preserve the outlook from the habitable rooms of adjoining occupiers by way of an overbearing impact having a detrimental effect on the residential amenities currently experienced by those occupiers, contrary to Policy SP2 of the Local Development Plan and advice contained within SPG02: Householder Development (2008) and Planning Policy Wales 11 (2021).

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

APPEAL NO.	A/20/3254083 (1896)
APPLICATION NO.	P/19/580/FUL
APPELLANT	MR ROBERTS & MRS PREECE
SUBJECT OF APPEAL	TWO STATIC RESIDENTIAL GYPSY CARAVANS, TWO DAY/UTILITY ROOMS, TWO TOURING CARAVANS, IMPROVED ACCESS, INTERNAL DRIVEWAY AND PARKING AREA, FENCING, RETENTION OF HARDCORE AREA & INSTALLATION OF A SEPTIC TANK: LAND EAST OF ZOAR CHAPEL, WERN TARW ROAD, RHIWCEILIOG, PENCOED
PROCEDURE	HEARING
DECISION LEVEL	DELEGATED OFFICER
DECISION	THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED

APPEAL NO.	C/21/3269231 (1951)
ENFORCEMENT NO.	ENF/51/19/ACK
APPELLANT	MR & MRS TOM & MONTENNA ROBERTS
SUBJECT OF APPEAL	TWO STATIC RESIDENTIAL GYPSY CARAVANS, TWO DAY/UTILITY ROOMS, TWO TOURING CARAVANS, IMPROVED ACCESS, INTERNAL DRIVEWAY AND PARKING AREA, FENCING, RETENTION OF HARDCORE AREA & INSTALLATION OF A SEPTIC TANK: LAND OPPOSITE ZOAR CHAPEL, CHAPEL ROAD (C021), RHIWCEILIOG, PENCOED

PROCEDURE HEARING

DECISION LEVEL ENFORCEMENT

DECISION THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE ALLOWED AND THE ENFORCEMENT NOTICE VARIED

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

APPEAL NO. A/20/3265375 (1909)
APPLICATION NO. P/20/433/FUL

APPELLANT HENRY & MARGARET PRICE & HENDRY & COLLEEN PRICE

SUBJECT OF APPEAL THE CREATION OF ONE GYPSY FAMILY PITCH COMPRISING OF TWO STATIC RESIDENTIAL GYPSY CARAVANS, TWO DAY/ UTILITY ROOMS, TWO TOURING CARAVANS, IMPROVED ACCESS, RETENTION OF HARDCORE AREA AND INSTALLATION OF A PACKAGE TREATMENT PLANT:
LAND AT NO. 2 GYPSY LANE STABLES, WERN TARW ROAD, RHIWCEILIOG, PENCOED

PROCEDURE HEARING

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

APPEAL NO. C/21/3269224 (1950)
ENFORCEMENT NO. ENF/114/20/ACK

APPELLANT MR & MRS HENDRY PRICE

SUBJECT OF APPEAL THE CREATION OF ONE GYPSY FAMILY PITCH COMPRISING OF TWO STATIC RESIDENTIAL GYPSY CARAVANS, TWO DAY/ UTILITY ROOMS, TWO TOURING CARAVANS, IMPROVED ACCESS, RETENTION OF HARDCORE AREA AND INSTALLATION OF A PACKAGE TREATMENT PLANT:
LAND AT NO. 2 GYPSY LANE STABLES, WERN TARW ROAD, RHIWCEILIOG, PENCOED

PROCEDURE HEARING

DECISION LEVEL ENFORCEMENT

DECISION THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE ALLOWED IN THAT THE TIME FOR COMPLAINT

BE VARIED BUT THE ENFORCEMENT NOTICE BE UPHOLD IN ALL OTHER RESPECTS

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

An application for costs was refused and is attached as Appendix B (1)

APPEAL NO. CAS-02029-Z3F8M4 (1954)
APPLICATION NO. P/20/923/FUL

APPELLANT TRIPLE JERSEY LIMITED

SUBJECT OF APPEAL THE ERECTION OF A CLASS A3 RESTAURANT AND DRIVE-THRU (BURGER KING) TOGETHER WITH ASSOCIATED EXTERNAL COVERED TERRACE, SCREENED REFUSE STORE, PARKING, LANDSCAPING AND ASSOCIATED WORKS:
LAND AT WICKES CAR PARK, WATERTON, BRIDGEND

PROCEDURE HEARING

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 C**

An application for costs was allowed and is attached as APPENDIX C (1)

APPEAL NO. CAS-02528-C0V8D6 (1983)
APPLICATION NO. P/22/391/FUL

APPELLANT MR G GIRLETZ

SUBJECT OF APPEAL FRONT GARDEN DEVELOPMENT: ERECT A SUPPORTING WALL AND BOUNDARY RAILINGS; CREATE PARKING AREA; LOWER KERB TO ALLOW ACCESS FOR PARKING AREA
87 FFORDD YR EHEDYDD, NORTH CORNELLY

PROCEDURE HOUSEHOLDER APPEAL

DECISION LEVEL DELEGATED OFFICER

DECISION THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED

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

An application for costs was refused and is attached as APPENDIX D (1)

RECOMMENDATION

That the report of the Corporate Director Communities be noted.

**JANINE NIGHTINGALE
CORPORATE DIRECTOR COMMUNITIES**

Background Papers (see application reference number)

Appeal Decision

by Mr A Thickett BA (Hons) BTP Dip RSA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 24/03/2023

Site address: Land East of Zoar Chapel, Wern Tarw Road, Rhiwceiliog, Pencoed

Appeal A: APP/F6915/A/20/3254083

- 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 Roberts & Mrs Preece against the decision of Bridgend County Borough Council.
- The application Ref P/19/580/FUL, dated 6 August 2019, was refused by notice dated 6 April 2020.
- The development proposed is two static residential gypsy caravans, two day/utility rooms, two touring caravans, improved access, internal driveway and parking area, fencing, retention of hardcore area and installation of a septic tank.

Appeal B: APP/F6915/C/21/3269231

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991. The appeal is made by Mr Roberts & Mrs Preece against an enforcement notice issued by Bridgend County Borough Council.
- The enforcement notice, numbered ENF/51/19/ACK, was issued on 28 January 2021.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use from agricultural land to the use of the land for the siting of a motorhome for residential purposes; the creation of a new access track and hardstanding through the importation of material; the erection of site enclosures/fencing, the siting of a day room and wooden shed for purposes ancillary to the residential use.
- The requirements of the notice are:
 - i. Cease the use of the Land for the siting of a motorhome for residential purposes;
 - ii. Remove the motorhome, day room, wooden shed and site enclosures/fencing from the Land;
 - iii. Excavate all hard surfaces and hardstanding including the access track and completely remove all resultant materials from the Land.
 - iv. Re-seed the Land with grass.
- The period for compliance with the requirements is: 3 months after the Notice takes effect.

- The appeal is proceeding on the grounds set out in section 174(2)[g] of the Town and Country Planning Act 1990 as amended.
 - A Hearing was held on 14 March 2023 followed by a site visit.
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Decision

1. Appeal A is dismissed.
2. Appeal B is allowed and the Enforcement Notice varied by:
 - i. 18 months replacing 3 months after TIME FOR COMPLIANCE.
 - ii. Deleting the requirements in 5(ii) and inserting: Remove the motorhome, day room, wooden shed, site enclosures, fences, portable buildings and all other objects from the Land.
 - iii. Deleting the requirements in 5(iii) and inserting; Excavate all hard surfaces, hardstanding and materials deposited on the land including the access track and remove all resultant materials from the Land.
3. The Enforcement Notice is upheld in all other respects.

Procedural Matter

4. The area covered by the enforcement notice includes land to the east, south and west of the site subject to the planning application and appeal. The appellants do not dispute that rubble, road shavings and other material has been deposited on the land to the south of the planning application site boundary and within the land included in the Enforcement Notice since the Stop and Enforcement Notices were served. At the Hearing the appellant did not object to the variation of the Enforcement Notice to require the removal of this material.

Main Issues

5. The main issues are:
 - whether the proposal conflicts with national and local policies designed to protect the countryside and promote sustainable development,
 - the effect of the proposal on the Hendre Uchaf Site of Importance for Nature Conservation (SINC),
 - the impact of the proposed development on the character and appearance of the area,
 - the impact of the proposed development on highway safety,
 - if the planning appeal is dismissed, whether 3 months is reasonable to comply with the requirements of the enforcement notice.

Reasons

Appeal A

Countryside

6. The appeal site is in the open countryside to the north of Pencoed. Policy ENV1 of the Bridgend Local Development Plan 2006 to 2021, adopted 2011 (LDP) is permissive of the provision of gypsy and traveller accommodation in the countryside where it is demonstrated to be necessary. The policy goes on to say that where development is

acceptable in principle, it should, amongst other things, be of an appropriate scale, form and detail for its context.

7. The emerging Bridgend Local Development Plan 2018 to 2033 is currently subject to examination. Policy DNP1 carries forward Policy ENV1 with regard to the provision of gypsy and traveller accommodation in the countryside. Based on the results of a Gypsy and Traveller Accommodation Assessment (GTAA), Policy SP7 of the emerging plan makes provision for two permanent three pitch sites. I heard at the Hearing that the needs identified in the GTAA and provided for by Policy SP7 have largely been met.
8. The appellant disputes the findings of the GTAA and, as a consequence, the level of provision in the emerging LDP. However, the Council accepts and I agree that the appellants' personal circumstances are such that their need for accommodation is genuine. The Council also accepted at the Hearing that it has no sites in addition to those identified under emerging Policy SP7 and that it was not necessary for the appellants to demonstrate that there are no sites available within settlements or within the curtilage of existing development in the countryside (Policy COM6(2)).
9. Policy COM6 of the LDP relates to gypsy and traveller sites and, amongst other things, requires sites to be well related to community services and facilities (Policy COM6(3)). The site is about two miles from Pencoed and one mile from Brynna. Brynna boasts a primary school, local shop with a post office, take away and a bus stop. The nearest GP surgery is about 2.5 miles away in Llanharan and the closest comprehensive school is about 3 miles away in Pencoed.
10. Circular 5/2018, 'Planning for Gypsy, Traveller and Showpeople Sites' states that sites in the countryside can be considered if there is a lack of suitable locations within or adjacent to settlements. The Circular goes on to say that decision makers should be realistic about the availability of transport modes other than the car and avoid an over rigid application of national and local policy which seeks to reduce car borne travel. The LDP does not define 'well related.' The Circular was published after the LDP and Policy COM6 were adopted and could be argued leans towards a generous interpretation of 'well related'.
11. The Council recognises the advice in the Circular and acknowledges appeal decisions where my colleagues have applied policy in this regard flexibly but asks at what point is a site too far away from a settlement to be considered acceptable? The Circular was published and the decisions cited by my colleagues made prior to the publication of Future Wales and the latest iteration of Planning Policy Wales (PPW). National planning policy and guidance emphasise the importance of minimising the need to travel, ensuring places are accessible by active travel modes and not dependent on the car. In my view, this later national policy weighs against the advice in the Circular.
12. The lanes to Brynna and Pencoed are narrow, winding and unlit and the appellants accepted at the Hearing that they are reliant on the private car to get to shops, schools and other facilities. I acknowledge that trips may be shared and a settled base would reduce journeys between sites currently used by family members. However, the site cannot be said to be in a sustainable location and well related to community services and facilities and the proposal, therefore, conflicts with Policy COM6.
13. To conclude on this issue, the proposal complies with LDP Policy ENV1(10) in that it has been demonstrated that there is a need to provide accommodation for the appellants. Nevertheless, I do not consider the site to be well related to community services and facilities. The appellants by their own admission would be reliant on the car for journeys to shops, schools, leisure and medical facilities and the proposal conflicts with Policy COM6(3) and national policy as set out in Future Wales and PPW.

The Hendre Uchaf Site of Importance for Nature Conservation

14. The site is located within the SINC which, in this area, is characterised by marshy grassland and broad-leaved semi-natural woodland. The works carried out by the appellants has resulted in the loss of around 1,300m² of habitat. Policy ENV4 of the LDP states that developments within a SINC should be compatible with the nature conservation interest of the area. The policy resists development which would have an adverse impact on a SINC unless the benefits associated with the development outweigh any harm or harm can be mitigated or compensated. Policy 9 of Future Wales seeks to safeguard the resilience of eco systems and requires all new development to secure the maintenance and enhancement of biodiversity.
15. The appellants commissioned a Biodiversity Impact Assessment and Enhancement Strategy to support the appeal. The Strategy included measures to be taken within the appeal application site and on land in the appellant's control to the east and south to create a wildlife corridor. The report concludes that the implementation of these measures should result in biodiversity enhancement.
16. The appellants do not dispute the Council's assertion that since the report was commissioned a significant amount of material has been deposited on the land to the south of the planning appeal site, including the area proposed to become the wildlife corridor. I saw the field to the south of the planning appeal site has been almost wholly covered by hardstanding created through dumping rubble, road shavings, materials from buildings (artificial slates) and concrete railway sleepers. A small area of marshy ground, itself partly covered with dumped material, is still visible close to the southern boundary.
17. The Council was generally supportive of the package of measures and enhancements proposed by the appellants' ecologist but these recommendations were made before the area to the south of the planning appeal site was almost completely covered as described above. The damage done to the SINC, not only by covering such a large area but with materials that may well be contaminated is unknown. Consequently, it is not possible to determine whether the measures set out in the Biodiversity Impact Assessment and Enhancement Strategy are now achievable, never mind likely to be successful.
18. For the same reason, I cannot be satisfied the harm caused can be rectified by the imposition of a condition. I conclude, therefore, that the proposed development would have an adverse impact on the SINC and conflicts with LDP Policies SP2(10) and ENV4 and Policy 9 of Future Wales.

Character and appearance

19. The site lies in the open countryside, the landscape constituting of irregular shaped fields and loosely dotted by houses and farm buildings. A row of large electricity pylons march across the fields to the north of Wern Tarw Road. A short walk to the west is another unauthorised gypsy site subject to planning and enforcement appeals also before me and for which a Hearing was held on 15 March 2023 (APP/F6915/A/20/3265375 and APP/F6915/C/21/3269224).
20. The site is roughly rectangular in shape and slopes gently away southwards from Wern Tarw Road. Two pitches are proposed each with a static caravan, day room and space to park two vehicles and a touring caravan. The Council accepts the site is not visible or prominent in medium to long term views. I agree the visual impact of the proposed development would be localised. Nonetheless, the presence of the proposed caravans, buildings and domestic paraphernalia would inevitably have an adverse impact on the rural character and appearance of the area and I conclude that the proposal conflicts with

LDP Policy SP2(2 & 3) and Policy ENV1 insofar as it requires development to be of an appropriate scale, form and detail.

21. Having said this, there is an acceptance in Policy ENV1 and the Circular, that gypsy and traveller accommodation is acceptable in the countryside should a need be demonstrated which cannot be met elsewhere. It must follow, therefore, that an element of landscape change is also accepted. Looking southwards from the hillside above the appeal site, the site was largely hidden by the intervening trees and hedgerows and views influenced by the pylons, the large Rockwool factory and long distance views of Pencoed. The existing hedgerows and proposed landscaping would further help mitigate the effect of the proposed development.

Highway safety

22. Having accepted the occupiers of the proposed development would be heavily if not solely reliant on the car for trips to the shops, schools etc it is unlikely the proposed development would generate many pedestrian movements. The proposal would lead to additional car journeys and the Council is understandably concerned with the impact this would have on the safety of pedestrians using the narrow lanes in the area.
23. At the Hearing local residents referred to speeding and inconsiderate drivers but I have seen nothing by way of accident records to indicate a significant issue with regard to pedestrian safety. I visited this and the other appeal site on 4 occasions over two days. I encountered a couple of walkers on my visits and with care and consideration on both sides there were no safety issues. From what I have seen and heard; I do not consider it has been demonstrated that the proposed development would have an adverse impact on highway safety. Again, as local and national policy accepts the principle of gypsy and traveller accommodation in the countryside, it must follow that some sites will be accessed by narrow country lanes. I conclude that the proposal does not conflict with LDP Policy SP2(6).

Conclusion – Appeal A

24. I find need has been demonstrated and the proposed development would not have an adverse impact on highway safety. I do not consider the site to be in a sustainable location and find the proposed development would have a detrimental impact on the character and appearance of the area. However, no other sites within or closer to a settlement have been identified that could meet the accepted need. Further, I consider it implicit in national and local policy that if need cannot be met elsewhere, an element of landscape change in the countryside is acceptable. In this case, the impact of the proposal on the landscape would be mitigated by the existing trees and hedges and the proposed landscaping. The demonstrated need and circumstances of the appellants outweighs my findings regarding sustainability and the impact of the proposed development on the character and appearance of the area.
25. However, I do not consider the appellants' needs outweighs the significant harm to the SINC. I am not satisfied that the proposed mitigation and enhancement works to offset the loss of that part of the SINC within the site are achievable.
26. Circular 16/14, 'The Use of Planning Conditions for Development Management' advises that grant of temporary planning permission will normally only be appropriate, where a temporary development is proposed or a trial run is needed in order to assess the effect of the development on the area. I considered whether a temporary permission would allow the appellants to address and reverse the damage to the SINC but there is insufficient information before me to be confident that is possible. Further, the Circular

warns against requiring the demolition of a building that is intended to be permanent, such as, in this case, the day rooms.

27. The appeal against the Enforcement Notice is on ground g only and I acknowledge that dismissing the planning appeal will either leave the appellants homeless or condemned to return to living in intolerable conditions. I have had regard to the right for respect for private and family life set out in Article 8 of the European Convention on Human Rights (ECHR), the Public Sector Equality Duty and Article 3(1) of the United Nations Convention on the Rights of the Child (UNCRC) with regard to the best interests of the appellants' children. I am aware that the appellants' children attend local schools and acknowledge the benefits of a settled education.

28. However, these rights are qualified and interference may be justified where it is in the public interest and proportionate. Safeguarding, maintaining and enhancing our natural environment and biodiversity is one of Welsh Government's well-being objectives. I consider interference with the appellants' exercise of these rights is necessary in a democratic society in the interests of safeguarding the natural environment and the consequent long term economic well-being of the country. Further that extending the time for compliance with the Enforcement Notice to 18 months is a proportionate response with regard to the best needs of the appellants' children.

Appeal B

29. The appeal against the enforcement notice is on ground g only, that being the time given for compliance is too short. One of the effects of the enforcement notice would be to render the appellants homeless or at best separated and facing intolerable living conditions on authorised sites. I agree with the appellant that 3 months is not adequate to find a suitable alternative site. At the Hearing the Council agreed to accept 9 months. I do not make light of the likely damage to the SINC but am also mindful of my duty under Article 3(1) of the UNCRC. Balancing the needs of the appellants and their children against the damage to the SINC, I consider 18 months to be reasonable and amend the notice accordingly.

30. I see no reason the appellants need wait 18 months to remove the material dumped in the field to the south of the planning appeal site and address the damage to the SINC. The Enforcement Notice requires the land to be re seeded with grass. Whether this is the most appropriate treatment for the SINC was not discussed at the Hearing and the appellant is encouraged to discuss the most appropriate seed mix with the Council to encourage habitat recovery.

Conclusion

31. For the reasons given above and having regard to all matters raised, I conclude Appeal A should be dismissed. Appeal B is allowed and the Enforcement Notice varied as set out in paragraph 2 above.

32. 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 principles through its contribution towards the Welsh Ministers' well-being objectives.

A Thickett

Inspector



Appeal Decision

by Mr A Thickett BA (Hons) BTP Dip RSA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 24/03/2023

Site address: Land at No. 2 Gypsy Lane Stables, Wern Tarw Road, Rhiwceiolog, Pencoed

Appeal A: APP/F6915/A/20/3265375

- 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 Henry Price against the decision of Bridgend County Borough Council.
- The application Ref P/20/433/FUL, dated 17 June 2020, was refused by notice dated 11 November 2020.
- The development proposed is the creation of one gypsy family pitch comprising of two static residential gypsy caravans, two day/utility rooms, two touring caravans, improved access, retention of hardcore area and installation of a package treatment plant.

Appeal B: APP/F6915/C/21/3269224

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991. The appeal is made by Henry Price against an enforcement notice issued by Bridgend County Borough Council.
- The enforcement notice, numbered ENF/114/20/ACK, was issued on 28 January 2021.
- The breach of planning control as alleged in the notice is without planning permission a material change of use from agricultural land to the use of the land for the siting of a touring caravan and motorhome for residential purposes; the creation of a new access track and hardstanding through the importation of material; the construction of a day/utility/toilet block for purposes ancillary to the residential use, the construction of a stable block and the siting of a steel storage container.
- The requirements of the notice are:
 - i. Cease the use of the Land for the siting of a touring caravan and motorhome for residential purposes.
 - ii. Remove motorhome, touring caravans, steel storage container and all associated paraphernalia from the Land.
 - iii. Demolish the day/utility/toilet block and stable block (iv) Excavate all hard surfaces and hardstanding including the access track.
 - iv. Completely remove all resultant materials from the requirements of (iii) and (iv) from the Land
 - v. Re-seed the Land with grass

- The period for compliance with the requirements is 3 months after the notice takes effect.
 - The appeal is proceeding under section 174(2)[g] of the Town and Country Planning Act 1990 as amended.
 - A Hearing was held on 15 March 2023 followed by a site visit.
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Decision

1. Appeal A is allowed and planning permission granted subject to the conditions set out in the schedule at the end of this decision.
2. Appeal B is allowed and the Enforcement Notice varied by:
 - i. 6 months replacing 3 months after TIME FOR COMPLIANCE.
3. The Enforcement Notice is upheld in all other respects.

Procedural Matter

4. The appellant questions whether the Enforcement Notice should have included the words 'operational development' as well as 'material change of use'. The Council does not consider this to be necessary. I agree, the wording of the allegation is such that it cannot be construed not to include the building works including the creation of the hardstanding and access.

Application for costs

5. An application for costs has been made by Henry Price against Bridgend County Borough Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues are:
 - whether the proposal conflicts with national and local policies designed to protect the countryside and promote sustainable development,
 - the impact of the proposed development on the character and appearance of the area,
 - the impact of the proposed development on highway safety,
 - whether the site has a potable water supply,
 - if the planning appeal is dismissed, whether 3 months is reasonable to comply with the requirements of the enforcement notice.

Reasons

Appeal A

7. The appeal site is in the open countryside to the north of Pencoed. Policy ENV1 of the Bridgend Local Development Plan 2006 to 2021, adopted 2011 (LDP) is permissive of the provision of gypsy and traveller accommodation in the countryside where it is demonstrated to be necessary. The policy goes on to say that where development is acceptable in principle, it should, amongst other things, be of an appropriate scale, form and detail for its context.
8. The emerging Bridgend Local Development Plan 2018 to 2033 is currently subject to examination. Policy DNP1 carries forward Policy ENV1 with regard to the provision of gypsy and traveller accommodation in the countryside. Based on the results of a Gypsy

and Traveller Accommodation Assessment (GTAA), Policy SP7 of the emerging plan makes provision for two permanent three pitch sites. I heard at the Hearing that the needs identified in the GTAA and provided for by Policy SP7 have largely been met.

9. However, the Council accepts and I agree that the appellant's personal circumstances are such that the need for accommodation is genuine. The Council also accepted at the Hearing that it has no sites in addition to those identified under Policy SP7 and that it was not necessary for the appellant to demonstrate that there are no sites available within settlements or within the curtilage of existing development in the countryside (Policy COM6(2)).
10. Policy COM6 of the LDP relates to gypsy and traveller sites and, amongst other things, requires sites to be well related to community services and facilities. The site is about two miles from Pencoed and one mile from Brynna. Brynna boasts a primary school, local shop with a post office, take away and a bus stop. The nearest GP surgery is about 2.5 miles away in Llanharan and the closest comprehensive school is about 3 miles away in Pencoed.
11. Circular 5/2018, 'Planning for Gypsy, Traveller and Showpeople Sites' states that sites in the countryside can be considered if there is a lack of suitable locations within or adjacent to settlements. The Circular goes on to say that decision makers should be realistic about the availability of transport modes other than the car and avoid an over rigid application of national and local policy which seeks to reduce car borne travel. The LDP does not define 'well related.' The Circular was published after the LDP and Policy COM6 were adopted and could be argued leans towards a generous interpretation of 'well related'.
12. The Council recognises the advice in the Circular and acknowledges appeal decisions where my colleagues have applied policy in this regard flexibly but asks at what point is a site too far away from a settlement to be considered acceptable? The Circular was published and my colleague's decisions made prior to the adoption of Future Wales and the latest iteration of Planning Policy Wales (PPW). Both emphasise the importance of minimising the need to travel, ensuring places are accessible by active travel modes and not dependent on the car. In my view, this later national policy weighs against the advice in the Circular.
13. The lanes to Brynna and Pencoed are narrow, winding and unlit and the appellant accepted at the Hearing that he is reliant on the private car to get to shops and other facilities. The site cannot be said to be in a sustainable location and well related to community services and facilities and the proposal, therefore, conflicts with Policy COM6.
14. To conclude on this issue, the proposal complies with LDP Policy ENV1(10) in that it has been demonstrated that there is a need to provide accommodation for the appellant and his family. Nevertheless, I do not consider the site to be well related to community services and facilities. The appellant by his own admission would be reliant on the car for journeys to shops, leisure and medical facilities and the proposal conflicts with Policy COM6(3) and national policy as set out in Future Wales and PPW.

Character and appearance

15. The site lies in the open countryside and within the Mynydd y Gaer Special Landscape Area, the primary characteristics of which are the undulating ridgeline landform running east to west and the attractive upland landscape associated with Mynydd y Gaer. The ridgeline and common are above the site to the north. The landscape around the site constitutes irregular shaped fields, loosely dotted by houses and farm buildings. A row of large electricity pylons march across the site. A short walk to the east is another

unauthorised gypsy site subject to planning and enforcement appeals also before me and for which a Hearing was held on 14 March 2023 (APP/F6915/A/20/3254083 and APP/F6915/C/21/3269231). The countryside around the site is not untouched but it has a pleasing rustic and rural character.

16. The land to the north of Wern Tawr Road rises and the proposed caravans (two static and two tourers) day rooms and 6 parking spaces would be on a plateau dug into the hillside. I heard from a local resident that the access to the proposed pitches from Wern Tawr Road used to be an old road and the site used as a quarry. This would explain the steep sides ringing the plateau and possibly the remains of a building the appellant claims to have discovered.
17. The proposed development would nestle into the hillside and be viewed against this backdrop. Looking southwards from the hillside above the appeal site, I could not see the area proposed for the pitches due to topography and the intervening mature trees and hedgerows. Any views from fields and houses on the hillside would be influenced by the pylons, the large Rockwool factory and long distance views of Pencoed.
18. The site is prominent viewed from Wern Tarw Road. I appreciate what I saw on site is not what is proposed. However, it illustrates the harm that would be caused through the introduction of the proposed development and associated domestic paraphernalia into this attractive rural area. In particular, the touring caravan on the site, with its typical light, shiny metal finish looks out of place in this rural area. I conclude that it conflicts with LDP Policies SP2 (2 & 3), ENV3 and ENV1 insofar it requires development to be of an appropriate scale, form and detail for its context.
19. However, there is an acceptance in Policy ENV1 and the Circular, that gypsy and traveller accommodation is acceptable in the countryside should a need be demonstrated which cannot be met elsewhere. It must follow, therefore, that an element of landscape change is also accepted. The existing hedgerows and proposed landscaping would help screen the proposed development. The touring caravans would be partly hidden behind the statics and day rooms. The static caravans could be clad or finished in recessive colours and the day rooms clad in timber. All this would help mitigate the impact of the proposed development.

Highway safety

20. The appellants stated at the Hearing that they attend the chapel which is about 200m to the west of the site. Other than walking to the chapel for services, having accepted the occupiers of the proposed development would be heavily if not solely reliant on the car, it is unlikely the proposed development would generate many pedestrian movements. The proposal would lead to additional car journeys and the Council is understandably concerned with the impact this would have on the safety of pedestrians using the narrow lanes in the area.
21. At the Hearing local residents referred to speeding and inconsiderate drivers but I have seen nothing by way of accident records to indicate a significant issue with regard to pedestrian safety. I visited this and the other appeal site on 4 occasions over two days. I encountered a couple of walkers on my visits and with care and consideration on both sides there were no safety issues. From what I have seen and heard; I do not consider it has been demonstrated that the proposed development would have an adverse impact on highway safety. Again, from the acceptance in local and national policy that gypsy and traveller accommodation may be acceptable in the countryside, it must follow that some sites will be accessed by narrow country lanes. I conclude that the proposal does not conflict with LDP Policy SP2(6).

Water supply

22. The appellant's water supply comes from bowsers imported on to the site. The documentation supporting the appeal application includes a reference to discussions with National Resources Wales regarding a borehole but no further information to show that it would be possible to supply the occupants of the site with potable water. Policy COM6 is in line with PPW with regard to showing that the necessary infrastructure, including a water supply of a suitable quality can be provided.
23. Further information submitted at appeal demonstrates that a supply of potable water is achievable. This will be secured by condition and I conclude that, in this respect, the proposed development complies with Policy COM6(4).

Conclusion – Appeal A

24. I find need has been demonstrated and the proposed development would not have an adverse impact on highway safety. I do not consider the site to be in a sustainable location and find the proposed development would have a detrimental impact on the character and appearance of the area. However, no other sites within or closer to a settlement have been identified that could meet the accepted need. Further, I consider it implicit in national and local policy that if need cannot be met elsewhere, an element of landscape change in the countryside is acceptable. In this case, the impact of the proposal on the landscape would be mitigated by the existing trees and hedges and the proposed landscaping. In my view, the demonstrated need and circumstances of the appellants outweighs my findings regarding sustainability and the impact of the proposed development on the character and appearance of the area.

Conditions

25. I have considered the conditions suggested by the Council in light of the advice in Circular 16/14/. Other than the areas of hardstanding, the development that has taken place on site is not as shown on the submitted plans. The Enforcement Notice is upheld in all respects bar the time for compliance and the development currently on site is unauthorised. On the basis the development subject to the appeal application is materially different to that subject to the Enforcement Notice, I have imposed the standard time limit condition.
26. The submitted details for external lighting include two types, a bollard and a bulkhead type but the site plan only shows the positions of the bollards. Lighting impacts on landscape and ecological interests and I will impose a condition requiring approval of details. The wording of the recommendations for biodiversity enhancements in the appellant's ecological report do not meet the test of precision and I will impose a condition requiring the submission and approval of details.
27. Surface water drainage requires separate approval and a condition in this regard is unnecessary. Given that the Council would be responsible for implementing a scheme providing warning signs within the highway, it would not be reasonable or appropriate to hold the appellant responsible for the works to be done in a specified time period.
28. Imposing a condition requiring approval of the external finish to the static caravans and day/utility rooms was not discussed at the Hearing. I consider such a condition to be necessary to help mitigate the impact of the proposed development on the character and appearance of the area. Conditions requiring approval of materials are standard and should not come as a surprise to the appellant.

Appeal B

29. The appeal against the enforcement notice is on ground g only, that being the time given for compliance is too short. Given the planning appeal is allowed, the main reason for seeking a longer period, that being to find alternative accommodation, does not apply.

30. However, it is likely to take longer than 3 months to complete the permitted works, particularly as some of the conditions require the submission and approval of details. I shall, therefore, extend the time for compliance to 6 months.

Conclusion

31. For the reasons given above and having regard to all matters raised, I conclude that the appeals should be allowed.

32. 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 principles through its contribution towards the Welsh Ministers' well-being objectives.

A Thickett

Inspector

Schedule

APP/F6915/A/20/3265375

The appeal is allowed and planning permission granted for the creation of one gypsy family pitch comprising of two static residential gypsy caravans, two day/utility rooms, two touring caravans, improved access, retention of hardcore area and installation of a package treatment plant at Land at No. 2 Gypsy Lane Stables, Wern Tarw Road, Rhiwceiolog, Pencoed, in accordance with the terms of the application, Ref P/20/433/FUL dated 17 June 2020, subject to the following conditions:

1. The development shall begin no later than five years from the date of this decision.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following plans: Drawing 01b - Expanded Location Plan, Drawing 02b – Location and Block Plan, Drawing 03a – Topographical Survey Plan, Drawing 04a – Overall Site Plan, Drawing 05b – Proposed Site Layout Plan, Drawing 06b– Floor Plan and Elevations of Proposed Utility / Day Room,

Reason: To ensure the development is carried out in accordance with the approved plans.

3. The occupation of the site shall only be by Gypsies and Travellers as defined by Welsh Government Circular 0005/2018.

Reason: The residential use of the site in this rural location would not be permitted unless occupied by a Gypsy or Traveller, in accordance with LDP Policy ENV1.

4. No more than four vehicles shall be kept on the land for use by the occupiers of the caravans hereby permitted and none of those vehicles should exceed 3.5 tonnes in weight.

Reason: To safeguard the character and appearance of the area and living conditions of nearby residents in accordance with LDP Policy SP2.

5. No commercial activities shall take place on the land including the storage of commercial plant, machinery, or vehicles.

Reason: To safeguard the character and appearance of the area and living conditions of nearby residents in accordance with LDP Policy SP2.

6. No more than four caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the caravans Sites Act 1968, comprising of two static caravan and two touring caravan shall be stationed on the site at any time.

Reason: To safeguard the character and appearance of the area in accordance with LDP Policy SP2.

7. The development hereby permitted shall not be occupied until details of external lighting have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the area and ecology in accordance with LDP Policy SP2.

8. The development hereby permitted shall not be occupied until a scheme for biodiversity enhancement has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To safeguard and enhance biodiversity in accordance with LDP Policy SP2.

9. The development hereby permitted shall not be occupied until a landscaping scheme including details of trees and hedgerows to be retained and their protection through the course of the development, has been submitted to and approved in writing by the local planning authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the development hereby permitted and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To safeguard the character and appearance of the area and ecology in accordance with LDP Policy SP2.

10. The development hereby permitted shall not be occupied until details of the external surfaces of the static caravans and day/utility rooms has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the area and ecology in accordance with LDP Policy SP2.

11. The development hereby permitted shall not be occupied until a scheme for foul drainage has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: to ensure drainage facilities are provided for the proposed development in accordance with LDP Policy SP2.

12. The development hereby permitted shall not be occupied until a scheme for the provision of traffic signs warning of the presence of pedestrians along Wern Tarw Road has been submitted to and agreed in writing by the local planning authority.

Reason: In the interests of highway safety in accordance with LDP Policy SP2.

13. The development hereby permitted shall not be occupied until visibility splays of 2.4 by 25m have been provided to the east and west of the access to Wern Tarw Road. No structure over 0.9m shall be placed within the visibility splays nor shall any planting be allowed to grow above 0.9m within the visibility splays.

Reason: In the interests of highway safety in accordance with LDP Policy SP2.

14. The development hereby permitted shall not be occupied until a water supply of a suitable volume and quality to serve the development hereby permitted has been provided in accordance with details to be submitted to and agreed in writing by the local planning authority.

Reason: In the interests of public health and in order to ensure that an adequate private water supply is provided in accordance with LDP Policy COM6.



Costs Decision

by Mr A Thickett BA (Hons) BTP Dip RSA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 24/03/2023

Costs application in relation to Appeal Ref: APP/F6915/A/20/3265375

Site address: Land at No. 2 Gypsy Lane Stables, Wern Tarw Road, Rhiwceiolog, Pencoed

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
 - The application is made by Henry Price for a partial award of costs against Bridgend County Borough Council.
 - The hearing, which was held on 15 March 2023, was in connection with an appeal against the refusal of planning permission for the creation of one gypsy family pitch comprising of two static residential gypsy caravans, two day/utility rooms, two touring caravans, improved access, retention of hardcore area and installation of a package treatment plant.
-

Decision

1. The application for an award of costs is refused.

Procedural matter

2. The costs application and rebuttals were made in writing and expanded upon at the hearing.

Reasons

3. The Section 12 Annex 'Award of Costs' of the Development Management Manual ('the Annex') advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. The application was refused for 4 reasons. This application is limited to the 4th reason which alleges insufficient information had been provided regarding the provision of a water supply to the proposed development. Planning Policy Wales advises that the adequacy of water supply should be considered when proposing development, both as a water service and because of the consequential environmental and amenity impacts associated with a lack of capacity (paragraph 6.6.9). One of the criteria of LDP Policy COM 6 requires a proposed gypsy site to be served by utilities, this would include a water supply.
5. The Planning Statement supporting the appeal application states that the appellant had been in discussion with NRW with regard to a license to extract water from a bore hole in the northern part of the site but went no further than that. In light of the oral submissions

at the Hearing, I am content water supply is matter that can be left to condition. The Council did not have this information at application stage and, given officers had determined to recommend refusal on other grounds, it was reasonable of them to decide not to put the appellant to the trouble and expense of providing further information.

6. The provision of an adequate water supply is a material planning consideration and the appellant would have needed to provide details in this regard at the planning application stage had the application not been refused on other grounds. I do not consider the Council has acted unreasonably nor that the appellant has been put to unnecessary expense.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Annex, has not been demonstrated. The application for an award of costs is refused.

A Thickett

Inspector



Appeal Decision

By Mr A Thickett BA (Hons) BTP Dip RSA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 11.04.2023

Appeal reference: CAS-02029-Z3F8M4

Site address: Land at Wickes Car Park, Waterton, Bridgend, CF31 3XX

- 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 Triple Jersey Limited against the decision of Bridgend County Borough Council.
 - The application Ref P/20/923/FUL, dated 9 November 2020, was refused by notice dated 22 December 2021.
 - The development proposed is the erection of a Class A3 restaurant and drive-thru (Burger King) together with associated external covered terrace, screened refuse store, parking, landscaping and associated works.
 - A Hearing was held on 7 March 2023 followed by a site visit on 15 March 2023.
-

Decision

1. The appeal is allowed and planning permission granted subject to the conditions set out in the schedule to this decision.

Procedural Matters

2. At the Hearing the Council was given leave to correct its rebuttal against the application for costs made by the appellant to address the appeal being made against the refusal of planning permission rather than non-determination. The Council's amended rebuttal went beyond correcting the error and contained evidence to support its case regarding the capacity of the local highway network.
3. As the evidence is material to the determination of the appeal, I accepted it and the appellant given time to respond. The application for costs is the subject of a separate decision.

Main Issue

4. Although the main area of dispute in this appeal is the impact of the proposed development on highway safety, to conclude on this matter it is necessary to consider sustainability, pedestrian safety, parking and highway capacity.

Reasons

Sustainability and pedestrian safety

5. The appeal site lies at the western end of a large car park serving a DIY store (Wickes). The proposed restaurant and drive through would take up some of the car park and share the access to the DIY store. Access to the store and other uses including a car wash, fast food restaurant and car sales is via a roundabout to the A48 (the Picton Court roundabout).
6. The site is located within Bridgend Retail Park, which under Policy REG10(1) of the Bridgend Local Development Plan 2006 - 2021, adopted 2013 (LDP), is allocated as an existing retail development outside the identified retail and commercial centres. The reasoned justification to the policy states that the retail parks identified under Policy REG10 are well integrated into the urban fabric of the County Borough and are well-served by public transport and accessible by means other than a car. This statement is repeated in the justification to a similar policy in the emerging LDP.
7. The Council acknowledged this at the Hearing and accept that, in the main, the retail park is accessible by public transport, cyclists and on foot. However, the Council consider the A48 to be such a barrier to cyclists and pedestrians that the only safe way to get to the stores and outlets on the southern side of the road is by car. I heard that in designing a new active travel route along the northern side of the A48, the Council had not considered the north/south pedestrian crossing of the eastern arm of the Picton Court roundabout due to an assumed low level of use.
8. The Council produced no evidence to support this assertion. The appellant produced a Strava heat map of pedestrian use along the A48 which showed footfall on its southern side. The appellant also submitted a survey of pedestrians crossing the Picton Court roundabout. This showed around 515 people crossing on a weekday and 312 crossing on a Saturday. Further, at the Hearing the owner of an existing catering van on the Wickes car park reported that shoppers regularly parked at Wickes and walked to the Home & Bargains store on the northern side of the A48. She attended the Hearing from the car park and reported that in one 20 minute period on the morning of the Hearing she witnessed 7 people cross the A48.
9. At the time of my visit, the footway on the northern side of the A48 was being improved and was closed. Pedestrians were directed to use the footpath on the southern side by crossing the A48 at the Picton Court roundabout. Whilst this may have been on the basis of 'needs must,' if crossing the A48 here is as dangerous as the Council suggests, why were people being directed to do just that?
10. The evidence before me shows that pedestrians do cross the A48 at the Picton Court roundabout. Accident data from 2017 to 2021 (inclusive) shows 3 incidents, all on the northern arm of the Picton Court roundabout. None of the accidents resulted in a fatality and whilst all accidents are significant to those involved, the volume of traffic through this junction is such that 3 incidents over a 5 year period does not indicate that the geometry of the roads and roundabout is inherently unsafe. I visited the site in the morning peak, around 09.00. I was able to cross all arms of the Picton Court roundabout safely. Traffic was busy but opportunities to cross safely did not take long to present themselves.
11. In support of the proposal the applicant submitted an assessment using the Pedestrian Environment Review System (PERS). The analysis showed the infrastructure for pedestrian crossings at the Picton Court roundabout to be an acceptable standard for all but the southern arm which the appellant has agreed to improve. Whilst refusing to accept the findings of the PERS review, arguing it was designed for London, the Council

conceded at the Hearing that PERS is more comprehensive than the equivalent Welsh Government guidance. Following Welsh Government guidance may have resulted in different answers but given PERS is agreed to be a more comprehensive assessment, I see no reason to doubt its conclusions.

12. I do not doubt that, as reported by the local Member at the Hearing, people don't always cross the A48 when and where it is safe to do so. However, I consider that it has been shown, and my experience confirms, that pedestrians can cross the A48 safely. The Council's claim that the proposed development would not be sustainable due to its location south of the A48 is not borne out and I find, in line with the adopted and emerging LDPs, that the proposed development would be accessible by means other than the private car.

Parking

13. The submitted layout shows 15 car parking spaces, a space for a delivery vehicle and cycle parking. The Council's parking standards require 17 spaces to serve the proposed development, falling to 15 if the site is deemed to be in a sustainable location. It was agreed at the Hearing that if I concluded that the site is in a sustainable location, which I have, it followed that 15 spaces would be acceptable. The appellant announced at the Hearing that the car park would be shared with Wickes and the existing gates would not be locked when Wickes closed. In addition to effectively removing parking as an issue in this appeal, this also provided the Council with comfort regarding concerns over the internal layout of the parking and drive through. Having said this, the appellant submits evidence including swept paths, which demonstrates that drivers should be able to negotiate the parking and drive through effectively.
14. The local Member at the Hearing was understandably concerned regarding the potential for anti-social behaviour should Wickes' car park be open when the store is closed, having experienced such behaviour on another large car park elsewhere. Given that I find 15 spaces to be adequate, there is no need to impose a condition requiring Wickes' car park to be open and available for users of the proposed development.
15. I heard that, due to storage of materials in the yard, articulated lorries delivering to Wickes are unable to turn around in the yard and so reverse down the service road, sometimes blocking the entrance to the car park. The service road is a private road and whilst HGVs manoeuvring and waiting on it is likely to prove frustrating to people trying to get to Wickes or the proposed development, I have seen nothing to suggest this would endanger users of the public highway.

Capacity

16. The appellant carried out traffic surveys and submitted an assessment relating to the capacity of the local highway network including the Picton Court and Waterton roundabouts. An updated assessment was produced to support the appeal. In brief, the conclusion of these assessments is that the proposed development would have an indiscernible impact on the capacity of the Picton Court and Waterton roundabouts.
17. Other than the late submission regarding the Waterton roundabout, the Highway Authority produced no empirical evidence regarding capacity. Its position before and during the Hearing was the appellant had submitted insufficient evidence to assess the impact of the proposed development. The appellant responded to all the matters raised by the Highway Authority prior to the determination of the application, providing further information and/or answers.
18. The Council, under the guise of an amended costs rebuttal and after the Hearing closed, submitted new information regarding the capacity of the Waterton roundabout (the

'Brocastle assessment') and the Strategic Transport Assessment produced to support the emerging LDP. The Council commissioned a review of the Brocastle assessment in 2017. I acknowledge that review raised concerns regarding capacity at the Waterton roundabout but the appellant has produced later studies which conclude there would be no discernible impact with regard to capacity. I note the appellants contention that the methodology used to produce the STA was flawed but it seems to me the site specific assessments carried out to support the appeal application are to be favoured over a district wide STA.

19. At the Hearing the Highway Authority maintained its position regarding the veracity of the appellant's evidence but the appellant's methodology and assessments are in line with standard industry practice. I am satisfied the appellant's assessments are robust and I have neither seen nor heard anything to persuade me that the information sought by the Highway Authority would lead to materially different conclusions.

Other Matters

20. I note the representations made in support of the owner of the catering trailer which operates from the car park. However, the impact of the proposed development on this business is not a material consideration.

Conditions

21. I have considered the conditions suggested by the Council in light of the advice in Circular 16/14. The layout of the proposed development cannot accommodate widening the footway on the western and southern boundaries. This requirement would conflict with the Circular which warns that conditions which would prevent the implementation of the development permitted should not be imposed. Given the location of the site on the A48, I see no need to require a delivery management plan. Nor am I persuaded one is needed to address potential for conflict with deliveries to Wickes. Surface water drainage is subject to a separate consenting procedure and I have neither seen nor heard anything to suggest foul drainage cannot be left to Building Regulations.

Conclusion

22. I find that the proposed development would not have an adverse impact on highway safety and complies with Policy SP2 of the LDP. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed.

23. 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 the Welsh Ministers' well-being objectives.

A Thickett

Inspector

SCHEDULE

CAS-02029-Z3F8M4

The appeal is allowed and planning permission granted for the erection of a Class A3 restaurant and drive-thru (Burger King) together with associated external covered terrace, screened refuse store, parking, landscaping and associated works at land at Wickes Car Park, Waterton, Bridgend, CF31 3XX, in accordance with the terms of the application, Ref P/20/923/FUL, dated 9 November 2020, subject to the conditions set out in the schedule to this decision.

1. The development shall begin no later than five years from the date of this decision.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following plans: P00 Location Plan-A; P02 Proposed Site Plan-C; P03 Proposed Ground Floor Plan-B; P04 Proposed First Floor Plan-B; P05 Proposed Roof Plan-A; P08 Boundary Treatment Ext Furniture; P06 Proposed Elevations 1 of 2-D; P07 Proposed Elevations 2 of 2 Section-C; Bridgend Drainage Strategy plan Ref.1298/11 Rev 1.

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

3. Notwithstanding the details shown on Proposed Site Plan-C, the development hereby permitted shall not be brought into use until two cycle parking stands capable of accommodating two bicycles each have been provided in accordance with details submitted to and approved in writing by the local planning authority. The approved cycle stands shall be retained for their designated use for as long as the development hereby permitted remains in existence.

Reason: To promote active travel and to comply with LDP Policy SP2.

4. The development hereby permitted shall not be brought into use until the parking and internal roads shown on Proposed Site Plan-C have been completed in permanent materials with the individual spaces clearly demarcated in permanent materials. The parking spaces shall be retained for their designated use for as long as the development hereby permitted remains in existence.

Reason: In the interests of highway safety and to comply with LDP Policy SP2.

5. Notwithstanding the details shown on Proposed Site Plan-C, the pedestrian access shown to the A48 shall not be constructed.

Reason: In the interests of highway safety and to comply with LDP Policy SP2.

6. The development hereby permitted shall not be brought into use until a pedestrian access at the south western corner of the site has been provided in accordance with details submitted to and approved in writing by the local planning authority. The pedestrian access shall be retained for its designated use for as long as the development hereby permitted remains in existence.

Reason: To promote active travel and to comply with LDP Policy SP2.

7. The development hereby permitted shall not be brought into use until a wall, fence or other boundary treatment designed to deter pedestrian access into the site along the northern and western boundaries has been provided in accordance with details submitted

to and approved in writing by the local planning authority. The approved boundary treatment shall be retained for its designated use for as long as the development hereby permitted remains in existence.

Reason: In the interests of highway safety and to comply with LDP Policy SP2.

8. The visibility splays shown on Figure 2-2 of the Calibro 'Fast Food Drive Thru, Park Plaza Bridgend' Transport Statement dated 4 November 2020, shall be provided before the development hereby permitted is brought into use. Nothing exceeding 0.9m in height above adjacent carriageway level shall be placed or allowed to grow above 0.9m within the required vision splay areas at any time.

Reason: In the interests of highway safety and to comply with LDP Policy SP2.

9. The development hereby permitted shall not be brought into use until a priority crossing across the southern access road to the roundabout serving the site has been provided in accordance with details submitted to and approved in writing by the local planning authority. The approved crossing shall be retained for its designated use for as long as the development hereby permitted remains in existence.

Reason: In the interests of highway safety, to promote active travel and to comply with LDP Policy SP2.

10. The development hereby permitted shall not be brought into use until all external lighting has been fitted in accordance with details submitted to and approved in writing by the local planning authority. The approved lighting shall be operated in accordance with the approved details for as long as the development hereby permitted remains in existence.

Reason: In the interests of highway safety and to comply with LDP Policy SP2.

11. No work above ground floor slab level shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the agreed details.

Reason To safeguard the character and appearance of the area in accordance with Policy SP2 of the LDP.

12. No work above ground floor slab level shall take place until a scheme of landscaping and biodiversity enhancement has been submitted to and agreed in writing by the local planning authority. The landscaping shall include, proposals for surface treatment, indications of all existing trees and hedgerows on land, and details of any to be retained, together with measures for their protection in the course of development. The approved landscaping and biodiversity enhancement works shall be carried out prior to the development hereby permitted being brought into use or in accordance with a timetable agreed in writing by the local planning authority prior to the development hereby permitted being brought into use. Should any plants die, become diseased or damaged within 5 years of the implementation of the approved landscaping scheme they will be replaced by plants of similar size and species unless otherwise agreed in writing by the local planning authority.

Reason To safeguard the character and appearance of the area and enhance biodiversity in accordance with Policy SP2 of the LDP and Policy 9 of Future Wales.

13. The premises shall be used for a Class A3 restaurant with hot food takeaway with 'drive thru' facility only and for no other purpose within the Town and Country Planning (Use

Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order.

Reason: To safeguard the vitality and viability of town and district centres in accordance with LDP Policy SP1.

14. Should the noise levels from the installed plant or any replacement plant be higher than the noise levels specified in Table 5 of the noise assessment undertaken by Inacoustic entitled 'Wickes DIY Store, Waterton, Bridgend-Noise Assessment of Proposed Drive-Thru Restaurant' dated 11th February 2021, project number 21-045, an updated noise assessment shall be provided to demonstrate compliance with condition 15.

Reason: To safeguard the living conditions of nearby residents in accordance with LDP Policy SP2.

15. The rating level of the combined noise from all plant (including the application of any tonal penalty) at the premises when assessed in accordance with BS4142 in free field conditions at any noise sensitive premises, shall not exceed the noise rating levels shown in table 1 below:

Time	Noise rating level
Day (07.00 – 23.00)	40 dB LAeq, 1 hour
Night (23.00 – 07.00)	30 dB LAeq, 15 minutes

Where the noise levels in the table are exceeded, a scheme of mitigation measures shall be submitted to and agreed with the local planning authority within 4 weeks of the date of obtaining the noise levels required to demonstrate compliance with table 1. The mitigation measures shall be implemented in full within 2 months of the scheme being agreed with the local planning authority unless an extension of time is permitted or otherwise agreed by the local planning authority.

Reason: To safeguard the living conditions of nearby residents in accordance with LDP Policy SP2.

16. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the local planning authority, all associated works must stop, and no further development shall take place unless otherwise agreed in writing until a scheme to deal with the contamination found has been approved. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme and verification plan must be prepared and submitted to and approved in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the local planning authority. The timescale for the above actions shall be agreed in writing with the local planning authority within two weeks of the discovery of any unsuspected contamination.

Reason: To safeguard users of the proposed development and to accord with LDP Policy SP2.

17. Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the local planning authority in advance of its importation. Only material approved by the local

planning authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance.

Reason: To safeguard users of the proposed development and to accord with LDP Policy SP2.

18. No development shall take place until a scheme to enable the provision of gigabit capable broadband infrastructure from the site boundary to the building hereby permitted has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To support the roll-out of digital communications infrastructure across Wales in accordance with Policy 13 of Future Wales.



Costs Decision

by Mr A Thickett BA (Hons) BTP Dip RSA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 11.04.2023

Costs application in relation to Appeal Ref: CAS-02029-Z3F8M4

Site address: Land at Wickes Car Park, Waterton, Bridgend, CF31 3XX

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
 - The application is made by Triple Jersey Limited for a full award of costs against Bridgend County Borough Council.
 - The Hearing, held on 7 March 2023, was in connection with an appeal against the refusal of planning permission for the erection of a Class A3 restaurant and drive-thru (Burger King) together with associated external covered terrace, screened refuse store, parking, landscaping and associated works.
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Decision

1. The application for an award of costs is allowed.

Procedural Matter

2. The appellant's application and Council's rebuttal were submitted in writing. At the Hearing the Council was given leave to correct its rebuttal against the application for costs made by the appellant to address the appeal being made against the refusal of planning permission rather than non-determination. The Council's amended rebuttal went beyond correcting the error and contained evidence to support its case regarding the capacity of the local highway network. As the evidence is material to the determination of the appeal, I accepted it and the appellant given time to respond.

Reasons

3. Section 12, 'Award of Costs' of the Development Management Manual advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. The appellant's claim that the Council failed to act constructively during the processing of the planning application is disputed and both sides produce e mails to justify their positions. I see no reason or benefit in going through who said what to whom and when before the application was determined. The costs regime, with limited exceptions, applies to the appeal process and in my view, the question is; did the Council produce evidence to substantiate the reasons for refusal?

5. I acknowledge the A48 is a busy road and pedestrians need to cross with care. However, the Council produced no technical evidence, by way of data or studies to support the assertion that the level of traffic or highway geometry on the A48 is such that it is a barrier to pedestrians reaching the shops and services on its southern side. My own experience, visiting the site at rush hour, is that it is possible to cross the A48 safely. I do not consider, therefore, that the Council produced sufficient evidence to support its concerns regarding the safety of pedestrians. It follows that the Council's concerns with regard to sustainability and parking are also unsubstantiated by evidence.
6. The appellant's submissions relating to swept paths and the operation of the proposed parking and serving arrangements was not countered by any empirical evidence by the Council. Whilst the Council may wish its Parking Standards Supplementary Planning Guidance (SPG) specified where spaces serving drive through customers should be located, it does not and its insistence that they be provided before the ordering point is not supported by the SPG.
7. Turning to capacity, in its appeal statement and at the Hearing, the Council's position was to attempt to rubbish the appellant's evidence. Until the submission of the amended costs rebuttal the Council produced no evidence of its own to support its arguments that the local highway network could not accommodate the traffic generated by the proposed development. However, neither the review of the 'Brocastle assessment' in 2017 or the district wide Strategic Transport Assessment supporting the emerging LDP are to be favoured over the more recent and site specific assessments carried out by the appellant. Further, whilst these studies may have highlighted potential issues and justified the request for further assessment, they do not provide evidence to substantiate the Council's position regarding capacity.
8. Turning to procedural matters, the submission of late evidence by the Council after the Hearing was closed, constitutes unreasonable behaviour. Whilst the appellant would have needed to respond to this evidence had it been submitted at the proper time, addressing new evidence after the Hearing closed would have inevitably resulted in the appellant being put to more expense than had it been submitted when it was preparing its case for the appeal.

Conclusion

9. I therefore find that unreasonable behaviour, on both substantive and procedural grounds, resulting in unnecessary expense has been demonstrated and that a full award of costs is justified.

Costs Order

1. In exercise of the powers under section 322C and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Bridgend County Borough Council shall pay to Triple Jersey Limited, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
2. The applicant is now invited to submit to Bridgend County Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Thickett

Inspector



Appeal Decision

by R H Duggan BSc (Hons) DipTP MRTPI
an Inspector appointed by the Welsh Ministers

Decision date: 26-04-2023

Appeal reference: CAS-02528-C0V8D6

Site address: 87 Ffordd Yr Ehedydd, North Cornelly, Bridgend CF33 4PD

- 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 Glen Girletz against the decision of Bridgend County Borough Council.
 - The application Ref P/22/391/FUL, dated 29 June 2022, was refused by notice dated 14 November 2022.
 - The development proposed is 'Front garden development: Erect a supporting wall and boundary railings; create parking area; lower kerb to allow access for parking area.'
 - A site visit was made on 18 April 2023.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Glen Girletz against Bridgend County Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description set out in the banner heading above is taken from the Council's decision notice as this more accurately and succinctly describes the development being proposed. Therefore, my consideration of this appeal is based upon this description, and I consider that there would be no prejudice in using this in my decision.

Main Issues

4. I consider the main issues to be the impact of the development on the character and appearance of the street scene and on highway safety.

Reasons

Character and Appearance

5. The appeal property is a detached two-storey dwelling located within a modern housing estate. Restrictions were imposed by a condition on the planning permission for the

development of the estate which removed permitted development rights for the erection of any boundary treatment to the front of the dwellings in order to retain the character and openness of the street frontages. Therefore, the housing estate has been designed with no individual boundary treatment delineating each property. This layout conveys a sense of space and helps to soften the urban grain.

6. The appeal site is an open area of land laid to grass which lies in front of the main elevation of No. 87. It is a prominent area of land located on the corner of Ffordd Yr Ehedydd/Skylark Road and Angel Way. It was brought within the curtilage of the host property when planning permission was approved in 2019 (Council Reference: P/19/628/FUL), and a restriction on permitted development rights for boundary treatment was also included as a condition on the planning permission. The proposed development would provide an additional off-street car parking space on this area of land and would involve the erection of a supporting wall and boundary railings with a dropped kerb allowing access in to the parking area.
7. I saw that there are front boundary treatments on some houses in the immediate locality and are generally composed of railings or low brick walls, some have low hedges, but for the most part frontages do not have boundary treatments. There are also some walls of a height of around 2 metres on return boundaries and where a side boundary to a property is adjacent to a highway. I cannot be certain that any of the boundary treatments that I saw benefit from planning permission or that they were considered in the same policy context. Moreover, they do not provide a visual context or a justification for the appeal scheme.
8. Nevertheless, due to the site's prominent corner location the physical enclosure of this open area of land would be at odds with the coherent and minimalist boundary treatments found on other frontages that are in the vicinity of the site. The scheme would present an enclosed frontage to passers-by which contrasts markedly with the sense of space that characterises the frontages of nearby dwellings and those found within the overall development. Consequently, the boundary treatment being proposed along with the supporting wall would be seen as dominant features that would appreciably harm the character and appearance of the street scene. This harm would outweigh the benefits for the appellant that would result from the proposed scheme.
9. As such, the proposed development would conflict with Policy SP2 of the Adopted Bridgend Local Development Plan (LDP) 2013. This policy requires all development to 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 by having a design of the highest quality possible, whilst respecting and enhancing local character and distinctiveness and landscape character (criterion 2).

Highway Safety

10. The Council's Senior Transportation Development Control Officer raised concern at the application stage in respect of the vehicular access to the parking bay and its associated risks to highway safety, and that the property would provide a total of 4 car parking spaces rather than the three required by the Council's parking standards.
11. The parking space would be located immediately adjacent to the estate road with no available turning area within the site. Whilst no details of the available visibility splays have been provided by either party, it was apparent from my own observations that visibility is restricted due to the alignment and bend of the road at the junction of Angel Way and Skylark Road. These factors significantly obstruct the line of sight into the highway from the proposed parking space with the result that drivers of vehicles leaving

the parking space would have a restricted view of oncoming vehicles or pedestrians before pulling into the highway. This would represent a significant risk to the safety of highway users.

12. Furthermore, there is no turning space within the site and there is the potential for users of the parking space to undertake manoeuvres in the highway. I find the potential for turning in the road to represent a considerable risk to both drivers and pedestrians.

13. For the reasons set out above, I am satisfied that the proposed development would result in an adverse impact on highway safety, in conflict with Policies SP2 and SP3 of the LDP.

Conclusions

14. Having regard to the above and considered all other matters raised, I conclude that the appeal should be dismissed.

15. 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 the Welsh Ministers' well-being objectives of making our cities, towns and villages even better places in which to live and work.

R. Duggan

INSPECTOR



Costs Decision

by R H Duggan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 26-04-2023

Costs application in relation to Appeal Ref: CAS-02528-C0V8D6

Site address: 87 Ffordd Yr Ehedydd, North Cornelly, Bridgend CF33 4PD

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
 - The application is made by Mr Glen Girletz for a full award of costs against Bridgend County Borough Council.
 - The appeal was against the refusal of planning permission for a 'Front garden development: Erect a supporting wall and boundary railings; create parking area; lower kerb to allow access for parking area.'
 - A site visit was made by the Inspector on 18 April 2023.
-

Decision

1. The application for an award of costs is refused.

The submissions for Mr Glen Girletz

2. The costs application was submitted in writing and states that a claim for costs is made due to the 25 week wait for a decision to be made, which was 12 weeks after the Council requested additional time to make the decision; the decision was made on the same day as the applicant requested an update from the Council and a complaint made regarding the delay; it's the same planning officer that made the decision to refuse the appeal scheme that imposed conditions on the previous planning permission in 2019; no site visit report was prepared; and the applicant has also previously paid a fee for a site visit from the highways department regarding a dropped kerb.

The response by Bridgend County Borough Council.

3. No response has been submitted by the Council.

Reasons

4. The Section 12 Annex 'Award of Costs' of the Development Management Manual ('the Annex') advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process. In terms of the advice as contained within the Annex, unreasonable behaviour can be procedural i.e. relating to the process, or substantive i.e. relating to issues of substance

arising from the merits of an appeal or application; the Annex cites examples of such behaviour.

5. I consider that the Council has not acted unreasonably in preventing the development and has reasonably articulated its concerns in relation to the development plan and other material considerations, as set out in paragraph 3.11(a) of Section 12 Annex. The Council's delegated Officers Report provides specific, reasoned and objective analysis of the development and has set out its concerns on these matters with adequate analysis of the context of the site and surroundings and the harm that would be caused to the character and appearance of the street scene and on highway safety.
6. The matters in dispute are thus ones of disagreement between the parties which could only have been resolved at appeal. As the appeal could not have been avoided no unnecessary or wasted expense has been incurred. The stance the Council took was not unreasonable in terms of costs referred to in the Annex.
7. In addition, the Applicant should have been aware of the restrictions imposed by a condition on the original planning permission for the development of the estate. This condition removed permitted development rights for the erection of any boundary treatment to the front of the dwellings in order to retain the character and openness of the street frontages. This restriction was also included as a condition on the planning permission to include the land within the curtilage of No. 87 Ffordd Yr Ehedydd (Council Reference: P/19/628/FUL) which was approved in November 2019.

Conclusions

8. Having regard to the reasons for refusal put forward by the Council in its decision notice and all other relevant considerations and the provisions of the Well Being and Future Generations Act, I conclude that the Council's decision to refuse permission did not amount to unreasonable behaviour. The application for an award of costs against the Council therefore does not succeed.

R Duggan

INSPECTOR