APPEALS

The following appeal has been received since my last report to Committee:

CODE NO. A/15/3130150 (1760)

APP. NO. P/15/102/OUT

APPELLANT MR & MRS R HAYES

SUBJECT OF APPEAL LAND AT WERN DEW FARM HEOL PERSONDY ABERKENFIG

PROCEDURE WRITTEN REPRESENTATIONS

DECISION LEVEL DELEGATED OFFICER

The application was refused for the following reason:

1. The site lies in the countryside and the proposal would constitute an undesirable intensification of development, would be prejudicial to the character of the area in which it is intended that the existing uses of land shall remain for the most part undisturbed, would be contrary to established national and local planning policies and would set an undesirable precedent for further applications for similar development in this area, contrary to Policy ENV1 of the Bridgend Local Development Plan.

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

CODE NO. A/15/3012436 (1754)

APP. NO. P/14/410/FUL

APPELLANT MR J CROCKER

SUBJECT OF APPEAL BUILD DETACHED FAMILY HOUSE OF SIMILAR SIZE TO EXISTING 'WINDRUSH' TON KENFIG

PROCEDURE HEARING

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 this appeal decision is attached as APPENDIX A.

An application for award of costs by the appellant was also refused. A copy of the decision is attached as APPENDIX B.

CODE NO. C/15/3018516 (1755)

ENF. NO. ENF/281/14/C

APPELLANT MR A J WALL

SUBJECT OF APPEAL	UNAUTHORISED BUILDING OF DWELLING AND UNAUTHORISED USE FOR THE SITING OF A CARAVAN FOR RESIDENTIAL PURPOSES: LAND OFF THE CROFT BARN HILL LALESTON
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION LEVEL	ENFORCEMENT NOTICES
DECISION	**THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEALS BE DISMISSED, SUBJECT TO CORRECTION (NOTICE A) AND THE ENFORCEMENT NOTICES UPHELD.**

A copy of this appeal decision is attached as APPENDIX C.

RECOMMENDATION:

That the report of the Corporate Director Communities be noted.

MARK SHEPHARD
CORPORATE DIRECTOR COMMUNITIES

Background Papers
See relevant application reference number.

APPENDIX A

The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Penderfyniad ar yr Apêl

Gwrandawiad a gynhaliwyd ar 21/07/15
Ymweliad â safle a wnaed ar 21/07/15

gan Vicki Hirst BA(Hons) PG Dip TP MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 29/07/15

Appeal Decision

Hearing held on 21/07/15
Site visit made on 21/07/15

by Vicki Hirst BA(Hons) PG Dip TP MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 29/07/15

Appeal Ref: APP/F6915/A/15/3012436
Site address: Windrush, Bridgend, CF33 4PT

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr John Crocker against the decision of Bridgend County Borough Council.
- The application Ref P/14/410/FUL, dated 15 June 2014, was refused by notice dated 30 October 2014.
- The development proposed is described as "to build a detached family house of similar size to existing Windrush with possible change of use to B&B".

Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Mr John Crocker against Bridgend County Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The appellant confirmed at the hearing that although reference was made to a possible future Bed and Breakfast use in the application, this did not form part of the current proposals. The Council confirmed that it had determined the application as a proposal for a detached family house and I have determined the appeal on the same basis.

Main Issue

4. The main issue is the effect of the proposal on residents' living conditions with particular regard to outlook and outdoor amenity space provision.

Reasons

5. The appeal site is located on the eastern side of the public highway linking Porthcawl with Kenfig and is set back from the road by an area of grass that is understood to be common land. It lies opposite the Kenfig Nature Reserve and is bounded by

residential properties to the north, south and east. The site was formerly developed with buildings associated with the use of the adjacent property Windrush as a dwelling and restaurant. The site was vacant at the time of my site visit.

6. The proposed dwelling would be situated adjacent to and to the south of Windrush and would be of a similar size and appearance. Access would be obtained to the rear of the property via an existing cul de sac that serves several detached dwellings. An area for amenity and parking would be provided to the east of the new dwelling.

7. The site comprises an infill plot within the settlement boundary of Ton Kenfig and there is no dispute that the site would comprise a sustainable and acceptable location for a new dwelling in principle. I have no reason to disagree.

Outlook

8. The proposed dwelling would have windows to all four sides and an external balcony to the front. The Council confirmed at the hearing that it has no objection on overlooking grounds subject to conditions. Its concerns are in relation to the dominating impact of the proposed dwelling to the windows in the southern elevation of Windrush.

9. I concur with the Council's view in respect of possible overlooking. The windows on the southern elevation of the proposed dwelling would be provided above average head height and I do not consider that there would be any significant loss of privacy to the front garden of the adjoining property Westhaven arising from these windows. They would appear high up in the wall when viewed from the south and there would be little perception of overlooking as they would be clearly positioned above average eye level. Whilst I note the Council's request for two of the windows to be conditioned to be fitted with obscured glass, I do not find this to be necessary subject to a condition requiring them to be above 1.7m from finished floor level.

10. The proposed windows and balcony to the front elevation would have some views over the western extremity of Westhaven's front drive but in view of the public nature of this part of the driveway close to the highway I do not find this to be harmful.

11. I similarly do not find that there would be a loss of privacy arising from windows on the rear, eastern elevation. Whilst the property Ty Madoc has a side window facing the site, on the evidence before me this window serves a landing rather than a habitable room. The orientation of the proposed dwelling to Ty Madoc combined with the high boundary wall to the rear would restrict any overlooking to its private garden.

12. The four proposed windows on the northern elevation of the dwelling would serve a bathroom and utility room at ground floor and a bathroom and en suite at first floor. There are two existing first floor windows in the southern elevation of Windrush and it was evident on my site visit that a further window in the western end of the southern elevation had been removed and blocked up. The Council confirmed at the hearing that this had occurred since it made its decision. I am satisfied that a condition requiring the first floor windows in the northern elevation of the new dwelling to be fitted with obscured glazing and fixed to be non-opening would overcome any loss of privacy to the first floor of Windrush. A condition requiring the agreement of an appropriate boundary treatment would address any overlooking at ground floor level.

13. I note the suggestion that as Windrush is in the same ownership a Grampian style condition could be imposed to ensure that its first floor southern lounge window is removed and the windows in its southern elevation are permanently fitted with

obscured glass prior to the construction of the new dwelling. As the lounge window has already been removed and in light of my suggested condition above I do not find such a condition to be necessary.

14. Notwithstanding my findings on direct overlooking, Windrush has two existing windows on its southern elevation that would be within approximately 2 metres of the proposed dwelling. I noted on my site visit that one serves the staircase and one serves a bathroom.

15. The appellant contends that as these windows serve non-habitable rooms there would not be any impact from the new dwelling to the occupiers of Windrush. The Council has referred to Note 1 of its adopted Supplementary Planning Guidance "Householder Development" (SPG) and which requires extensions to not unreasonably dominate the outlook of an adjoining property. Whilst the SPG is primarily concerned with householder extensions in the absence of any guidance implicit to new dwellings it provides useful direction. The SPG specifies that unreasonable domination is an issue only where a main window to a habitable room in an adjacent dwelling will overlook a proposed extension[1].

16. Given that the two southern windows in the adjacent dwelling serve non habitable rooms I do not consider that the proposal would result in a degree of dominance that would be harmful to the outlook from the adjacent property. Whilst I observed that the staircase window provides some indirect light into the main lounge of Windrush, this room has substantial glazing to its western and northern sides. Other habitable rooms are situated on the northern and eastern sides of the property and do not have an outlook towards the appeal site. I find the proposal would not result in any harm to the outlook from Windrush.

Amenity Space

17. The proposed amenity space would be situated to the rear of the new dwelling and would provide both a private area for the occupants' ancillary domestic activities as well as providing three parking spaces. An additional balcony area to the front would provide further general amenity space.

18. The Council has no prescriptive guidance on the space required to serve a new dwelling. The SPG provides guidance on the general principles in relation to the provision of amenity space in relation to householder development[2].

19. The appellant states that urban design principles consider it good practice for gardens to be the same size as the footprint of the house. The proposal would provide approximately 129 square metres to the rear of the house and a balcony of 16 square metres to the front which would be comparable with the proposed footprint of 146 square metres. It is also contended that the site is situated in close proximity to a large area of public open space within the Kenfig Nature Reserve that would provide ample outside space.

20. The proposal relates to a large, family home with four bedrooms and which would require sufficient space for ancillary activities such as play space, sitting out, and

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[1] Paragraph 4.1.2, Supplementary Planning Guidance, Householder Development, Bridgend County Borough Council, December 2008

[2] Paragraphs 5.1.1 & 5.1.2, Supplementary Planning Guidance, Householder Development, Bridgend County Borough Council, December 2008

drying washing. Whilst the proposed amenity space would be of a comparable size to the footprint of the house it would be provided in two separate areas and the larger area would also be used for access and parking for three cars. I find the provision to be substandard to meet both the parking requirements and the ancillary needs of a large dwelling. The space that would be available would not be private due to the proximity of Windrush with windows on the eastern elevation that would directly overlook the proposed space. The balcony would be elevated on the front, public facing elevation of the dwelling and would lack privacy due to its position.

21. I acknowledge the proximity to the public nature reserve but do not find this to be a satisfactory alternative to the need for private, rear amenity space for day to day ancillary domestic activities and safe play space. I find the provision would be inadequate and would not be sufficient for any future occupants to meet their ancillary residential needs.

Other Matters

22. I have had regard to the previous appeal decision relating to a similar proposal on the site. Whilst I have not been provided with the full details both main parties agreed at the hearing that it differed from the current proposal in respect of overlooking as it did not provide high level windows in the southern elevation. I have found that the high level windows address any privacy issues to Westhaven.

23. No reference is made to the provision of amenity space in that decision. The LDP has since been adopted and which represents a material change in circumstances. I have determined the proposal before me with regard to its particular circumstances and with regard to the current development plan. Whilst I note that the appellant considers the policy position to be similar to the previous plan, on the evidence before me I find this particular proposal would be unacceptable. The former appeal decision does not therefore alter the conclusions that I have reached.

24. I have taken account of all other matters raised. Issues relating to interference with views, rights of access, the appellant's personal circumstances and the Council's handling of the case are not pertinent to my consideration of the planning merits of the proposal. I am satisfied that matters in relation to drainage and possible contamination can be controlled through the imposition of conditions.

25. I acknowledge the appellant's view that the proposal would improve the appearance of the site and that the rejuvenation of the commercial use of Windrush would benefit the economy. Any benefits arising from the proposal need to be balanced against its effects. In this instance I find the harmful effects outweigh any benefits.

Conclusions

26. Whilst I find the proposal acceptable in terms of its effect on the outlook of residents, this is outweighed by the substandard provision of outside amenity space and which would result in future occupants being unable to meet their ancillary domestic needs. I conclude that the proposal would not be in accord with the relevant adopted development plan policy SP2 and Householder Development SPG.

27. For the reasons above I conclude that the appeal should be dismissed.

Vicki Hirst

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr J Crocker	Appellant
Mrs J Jones	Vale Planning

FOR THE LOCAL PLANNING AUTHORITY:

Mrs N Gandy	Principal Planning Officer
Mrs A Borge	Appeals Officer

DOCUMENTS SUBMITTED AT THE HEARING:

Council's letter of notification and site notice of appeal arrangements, 23 June 2015

Written costs application submitted by the appellant

Written costs application response submitted by the Council

APPENDIX B

The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Penderfyniad ar gostau

Gwrandawiad a gynhaliwyd ar 21/07/15
Ymweliad â safle a wnaed ar 21/07/15

gan Vicki Hirst BA(Hons) PG Dip TP MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 29/07/15

Costs Decision

Hearing held on 21/07/15
Site visit made on 21/07/15

by Vicki Hirst BA(Hons) PG Dip TP MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 29/07/15

Costs application in relation to Appeal Ref: APP/F6915/A/15/3012436
Site address: Windrush, Bridgend, CF33 4PT

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

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr John Crocker for a full award of costs against Bridgend County Borough Council.
- The hearing was in connection with an appeal against the refusal of planning permission for the building of a detached family house of similar size to Windrush with possible change of use to B&B.

Decision

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

The submissions for Mr John Crocker

2. The case was submitted in writing at the hearing.

The response by Bridgend County Borough Council

3. The response was submitted in writing at the hearing.

Reasons

4. I have considered the application in the light of advice in Circular 23/93: "Awards of Costs Incurred in Planning and Other (Including Compulsory Purchase Order) Proceedings". This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.

5. The applicant contends that the application was made following pre-application advice from the Council with the application addressing the issues raised. The Council has behaved unreasonably as it subsequently refused the application and included additional reasons for refusal to those on previous applications and which has resulted in the applicant incurring unnecessary and wasted expense in relation to the appeal process.

6. The Council's advice prior to the application being made does not appear to be based on a revised scheme but was rather to provide guidance on how the previous reasons for refusal could be overcome. The advice was evidently given on the basis that it was without prejudice to any future decision of the local planning authority and this was clearly specified in its response[1]. I do not find that the advice given resulted in the Council behaving unreasonably in subsequently refusing the application.

7. Authorities are expected to produce evidence to substantiate each reason for refusal with reference to the development plan and all other material considerations, showing clearly why the development cannot be permitted. The Council's decision was based on two main reasons for refusal; one relating to the overdevelopment of the site resulting from the insufficient provision of amenity space and one relating to the development dominating adjoining property resulting in a loss of residential amenity.

8. The issues concerned are to a certain extent subjective and the Council's adopted Local Development Plan (LDP) policy SP2 requires a degree of judgement. The officer's report fully analysed the main issues and the reasons why the application was considered to be unacceptable and specified these in its decision notice.

9. In relation to the effects of the proposal on residential amenity, the Council specified that its concerns were in relation to the impact on adjacent property, identifying the close proximity to the windows on the southern elevation of Windrush. This was clearly acknowledged by the applicant as his statement of case is concerned only with the effects to this property and provided suggestions as to how a condition could overcome any impacts.

10. The adopted Supplementary Planning Guidance "Householder Development" is not prescriptive in respect of the amount of amenity space required and whilst provides useful direction on the issues concerned has been adopted to assess householder developments rather than new dwellings. The Council clearly identified why it considered that the proposed amenity space provision was insufficient based on its size and shared use for parking and access. It also referenced why this reason had not been included in previous decisions.

11. The applicant has referenced the previous appeal decision. Paragraph 16 of Annex 3 of Circular 23/93 states that in the event of a successful appeal against the local planning authority's refusal of planning permission the authority are likely to be regarded as acting unreasonably if it is clear from a relevant earlier appeal decision that the Inspector would have no objection to a revised application in the form which was ultimately allowed and circumstances have not changed materially in the meantime.

12. Whilst I have found in favour of the applicant in respect of the dominating effect of the proposal on adjoining property, I find the provision of amenity space to be insufficient and have dismissed the appeal. Since the former appeal decision the LDP has been adopted and represents a material change in circumstances. The applicant contends that the essence of the LDP policies remains the same as those in the earlier plan and against which the Inspector determined the appeal. Nonetheless the Council has assessed the current proposal with regard to the current development plan and found it to be unacceptable and clearly identified why the proposal fails to accord with the relevant plan policies.

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[1] Letter from Bridgend County Borough Council to Mr Crocker, 21 February 2015

13. I have not been provided with the full details of the earlier appeal proposal and acknowledge that no reference was made to either amenity space or the impact on Windrush in the previous decision. Nonetheless, on the information before me I find little evidence to demonstrate that the Inspector gave any indication that the revised scheme, the subject of the current appeal, would be acceptable.

14. I am satisfied that the Council's reasons for refusal are clearly substantiated in the officer's report, its decision notice and within its evidence at appeal.

Conclusion

15. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 23/93 has not been demonstrated.

Vicki Hirst

INSPECTOR

APPENDIX C

The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 28/07/15

gan Clive Nield BSc(Hon), CEng, MICE, MCIWEM, C.WEM

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 12/08/15

Appeal Decision

Site visit made on 28/07/15

by Clive Nield BSc(Hon), CEng, MICE, MCIWEM, C.WEM

an Inspector appointed by the Welsh Ministers

Date: 12/08/15

Appeal Ref: APP/F6915/C/15/3018516
Site address: Land opposite The Croft, Barn Hill, Laleston, Bridgend, CF32 0LU

The Welsh Ministers have transferred the authority to decide these appeals to me as the appointed Inspector.

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Alan Wall against two enforcement notices issued by Bridgend County Borough Council.
- The Council's reference is ENF/281/14/C.
- The notices were issued on 9 April 2015.
- The appeals are proceeding on the grounds set out in sections 174(2)(a), (b) and (d) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.

NOTICE A - MATERIAL CHANGE OF USE OF LAND
- The breach of planning control as alleged in the first notice is, without planning permission, change of use of the said land by the siting of a caravan.
- The requirements of the notice are to cease the use for residential and remove the caravan from the land edged red on the attached plan.
- The period for compliance with the requirements is 3 months.

NOTICE B - OPERATIONAL DEVELOPMENT
- The breach of planning control as alleged in the second notice is, without planning permission, the erection of a dwelling house.
- The requirements of the notice are to demolish the building shown outlined in blue on the attached plan and remove the resultant materials from the land outlined in red on the attached plan.
- The period for compliance with the requirements is 3 months.

Decisions

Notice A – Material Change in Use of the Land (caravan)

1. The enforcement notice is corrected by changing the alleged breach of planning control in paragraph 3 to read "Without planning permission, change of use of the said land by the siting of a caravan for residential purposes." Subject to this correction the appeal is dismissed and the enforcement notice is upheld, and planning permission is

refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Notice B – Operational Development (dwelling house)

2. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matters

3. The alleged breach of planning control in Notice A is deficient as it does not specify that the change of use of land concerned is the use of the caravan for residential purposes. However, the requirements of the notice include ceasing the use for residential purposes, and there has clearly been no misunderstanding of this by the Appellant. I do not consider he would be prejudiced if I were to correct the notice to clearly specify this, and I will use my powers accordingly.

Appeals under Ground (b)

4. An appeal under ground (b) is to the effect that the breach of control as alleged in the notice has not occurred as a matter of fact. There is no dispute that both the caravan and the building referred to as a dwelling house exist on the site as a simple matter of fact. Thus the appeals under ground (b) fail.

Notice A (caravan) – Ground (d) Appeal

5. This ground of appeal is that, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice. In this case, it would be too late to take enforcement action if a caravan had been stationed on the site and used for residential purposes for more than 10 years.

6. It is not disputed that the present caravan was brought on to the site in 2009 and has been used for residential purposes, though it is not clear for how long. Certainly it is no longer used for residential purposes, being currently in use to house a number of pet ferrets, and no evidence has been provided as to how long any residential use took place. Mr Wall himself claims to have lived in the "barn" for the last 7 years. It may be that the caravan has been used for occasional residential purposes over that period. However, even if residential use had persisted since 2009, it would still fall well short of the 10 years continuous use required for it to become lawful.

7. Mr Wall says that prior to 2009 he lived in another caravan on the site since 2005, and one of friends/acquaintances says he remembers there being a caravan on the site since that date. However, the Council asserts that a structure evident on aerial photographs at that time was an open shelter rather than a caravan (and was described as such on plans submitted by Mr Wall in his planning application for a small barn in January 2008) and that there was no caravan on the site when Council officers visited in January 2008 in connection with the planning application. This draws me towards the conclusion that, even if an earlier caravan was used for residential purposes, that use was intermittent at best.

8. In an appeal under ground (d) the burden of proof lies with the Appellant to prove his case on the balance of probabilities. Mr Wall has provided very little by way of evidence of any residential use of either caravan but certainly not of the first one. Thus I conclude on the balance of probabilities and as a matter of fact and degree that 10 years continuous use of a caravan for residential purposes on the appeal site has

not been demonstrated. The appeal under ground (d) for this enforcement notice is unsuccessful.

Notice B (dwelling house) – Ground (d) Appeal

9. Whilst 10 years residential use is required for the caravan above to become lawful, it would be too late to take enforcement action if the dwelling house had been substantially completed for more than 4 years. The building in question was granted planning permission as a barn in March 2008 (planning permission ref P/08/22/FUL for a *"small barn for tractor and livestock, food storage for winter"*). However, the Appellant is alleged to have said that the building was actually built as a dwelling house rather than as a barn, and there is no evidence it was ever used for its permitted purpose. Thus, it appears that the 2008 planning permission has lapsed and, in that respect, the building is unlawful.

10. Mr Wall claims to have lived in the building since 2008, though it is unclear how this is consistent with similar claims for use of the caravan. Notwithstanding that, Mr Wall maintains that the building was completed as a dwelling house in 2008 and that no other building work has been carried out since that time. That is clearly not correct as the Council's aerial photographic evidence shows that the lean-to extension currently used as a rudimentary kitchen has only been added within the past year or so. Mr Wall says that, before that was added, there was some kitchen facility within the main building. Nevertheless, if the building were regarded as amounting to a dwelling house, it was not completed in its present form until much less than 4 years ago.

11. However, reservations about completion of the building as a dwelling house go much deeper than that. The "dwelling house" comprises a single downstairs room and an attic room accessed by a small, steep, narrow staircase. It appears to have been built with a chimney but with little in the way of other facilities normally associated with a dwelling house. Until the lean-to extension was added, its kitchen facilities would have been severely limited, and even now they rely on collected rainwater for all water supply (to both the building and the caravan). There are no bathroom or toilet facilities within the "dwelling house", and Mr Wall has apparently used the caravan in the past for these purposes, though there is no longer any such facility in the caravan either.

12. The courts have held that an essential feature of a dwelling house is its ability to afford the basic day-to-day facilities needed for normal residential use. I conclude, as a matter of fact and degree, that the building does not provide these and so is not a substantially completed dwelling house. Whilst Mr Wall may have lived in the building for some years, that domestic use has been enabled by his use of basic facilities elsewhere, either in the caravan or in other residential properties. Thus the "dwelling house" is not substantially complete and does not benefit from the passage of time to become lawful. The appeal under ground (d) for this enforcement notice is unsuccessful.

Notices A and B – Ground (a) Appeals

13. Finally, I turn to consider the appeals under ground (a) (i.e. that planning permission should be granted for what is alleged in the notices) and the deemed planning application for retention of either the residential caravan or the building (the "dwelling house") or both. These raise the same issues and so are conveniently considered at the same time. In both cases the main issues are the effects on the character and appearance of the area and on highway safety.

14. The site lies in the open countryside well outside the nearest settlement boundary. Thus any residential development of the site conflicts with the aims of Local Development Plan Policy ENV1, which strictly controls development in the countryside in order to maintain its integrity and protect it for its own sake. The policy lists several exceptions that might be acceptable but none of these are argued by the Appellant or appear appropriate.

15. Both the stationing of a caravan on the site for residential purposes and the erection of the building for residential use are detrimental to the rural character and appearance of the area. Even though some tree planting has been carried out, the building and caravan are clearly seen from the surrounding area, and the domestic use of the site also introduces elements that are alien to its rural surroundings. Thus the developments also conflict with Local Development Plan Policy SP4, which does not permit development having an adverse impact on the character of the landscape or the integrity of the countryside.

16. On the issue of highway safety, Mr Wall has explained that he has improved the entrance to the site from the A48 main road and that he has never experienced any problems entering or leaving the site. Nevertheless, the entrance is off a busy major road, described by the Council as a County distributor road with a 60 mph speed limit. Traffic along it travels quite fast, and visibility is limited to some extent by the topography. In the ordinary course of events residential use of the site would be expected to generate considerably more traffic movements in and out of the site than agricultural use. Thus it increases risks to highway safety contrary to development plan and national policy.

17. My overall conclusion on planning merits is that the developments subject to the enforcement notices are unacceptably harmful to the rural character and appearance of the area and to highway safety, both individually and together. They conflict with development plan policy. For these reasons I conclude that the appeals under ground (a) should not succeed and that the deemed planning application should be refused.

18. In reaching these conclusions I have taken into account all other matters raised, including Mr Wall's personal circumstances. Although not raised by the parties, I have considered Mr Wall's rights under the Human Rights Act 1998 and the European Convention on Human Rights (ECHR). Article 8 (respect for his private and family life and his home) and Article 1 of the First Protocol (protection of property) of the ECHR are engaged, and I recognise that dismissal of the appeals would interfere with Mr Wall's rights. However, the harm caused to the character and appearance of the area and to highway safety is considerable, and I am satisfied that the legitimate aim of protection of the environment cannot be achieved by any means that would interfere less with Mr Wall's rights. The enforcement action is proportionate and necessary in the circumstances and would not result in violation of his rights under the Articles concerned.

19. I have also considered the possibility of using planning conditions to make the developments acceptable. However, the harm is one of policy principle as well as amenity, and I do not consider conditions would overcome the harm caused.

Overall Conclusion

20. Mr Wall comments on the practicalities of removing the caravan without damaging it. However, although it has been boxed-in with concrete blocks, nothing has caused me to doubt that it remains a caravan, is not fixed permanently to the ground and is

capable of being moved. The state of the caravan and the detailed practicalities of moving it have little relevance to its definition as a caravan.

21. I have concluded against the Appellant on all grounds on both appeals. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notices (as corrected) and refuse to grant planning permission on the deemed applications.

Clive Nield

Inspector