



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 05/10/22

Ymweliad â safle a wnaed ar 12/10/22

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

**Arolygydd a benodir gan Weinidogion
Cymru**

Dyddiad: 22/11/2022

Appeal Decision

Hearing held on 05/10/22

Site visit made on 12/10/22

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

**an Inspector appointed by the Welsh
Ministers**

Date: 22/11/2022

Appeal Ref: APP/F6915/A/20/3253547

**Site address: Land at The Barn, Smallholdings Lane, Coity, Bridgend, CF35
6BW.**

**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 and Mrs Nathan and Sophie Price against the decision of Bridgend County Borough Council.
 - The development proposed is one static residential Gypsy caravan together with the erection of a day/utility room, one touring caravan, replacement stable block, car parking area and installation of a septic tank.
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Decision

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

Procedural Matters

2. The Council confirmed at the hearing that there is no dispute that the appellants meet the definition of Gypsies as set out in Section 108 of the Housing Wales Act 2014 (HWA). Some interested party correspondence questions whether Mrs Price meets the statutory definition as she has indicated an intention to settle at the appeal site. Welsh Government Circular *Planning for Gypsy, Traveller and Travelling Showpeople Sites* 005/2018 makes it clear that it is possible for people to fall within the statutory definition when they have ceased to travel permanently. I heard from Mrs Price that she and her husband come from long-established Gypsy families, that her husband travels for work and that it is only their physical separation that prevents them from travelling to Gypsy fairs. I understand and accept Mrs Price's reasons for wishing to live a settled life are related largely to her health. I am satisfied that all the intended occupants of the appeal

site; the appellants and their children, are Gypsies within the statutory definition as set out in the HWA.

3. Land Registry documents show there has been a change in ownership of the land since the application for planning permission was made. Mrs Price confirmed at the hearing that the appeal site had previously been owned by her father, that he had gifted her the land and that the gift transaction has been registered with the Land Registry. I am satisfied that, at the time the application was made, all those with an interest in the land would have been aware the planning application had been made.
4. The appellants' agent submitted late evidence at the hearing comprising a report and summary from Senedd Cymru "Welsh Government and local authorities failing Traveller communities" 10/08/22 together with consultation responses. Those present had the opportunity to comment and I have had regard to these documents in the determination of this appeal.
5. The personal circumstances of the appellants have been included in written evidence and were discussed at the hearing, however, as I have found that the proposed development would accord with the development plan and national policy, it has not been necessary to set those circumstances out in this decision.

Main Issues

6. This is whether, or to what extent, the proposed development complies with the development plan and with national policy set out in Planning Policy Wales, Edition 11 (PPW) in relation to new residential development in the countryside with particular reference to:
 - The need for sites in the area together with current and likely future levels of provision.
 - The sustainability of the location of the site.
 - The effect of the proposed development on highway safety.
 - The effect of the proposal on the character and appearance of the area.
 - Personal circumstances which are relevant to the decision.

Reasons

7. The appeal site comprises a rectangular parcel of land amounting to approximately 0.13 hectares. The site is occupied by an agricultural style metal barn sited adjacent to the highway access and a smaller timber stable structure at the southern side of the site. Both the barn and the stable were constructed with planning permission. The site is generally level and hard surfaced. At the time of my visit there was some vegetation growth, some earth mounds and some miscellaneous items including metal fencing panels present.
8. The application is for the change of use of the site to a residential use for the appellants and their children. The proposal includes the siting of a static caravan, a day/utility room, a touring caravan, two parking spaces and the replacement and re-siting of the stable block with a larger structure.
9. Policy ENV 1 of the Bridgend County Borough Council Local Development Plan (2006-2021) (LDP) *Development in the Countryside* states that within the countryside development will be strictly controlled but may be acceptable for, amongst other things, the provision of Gypsy Traveller Accommodation. Policy COM 6 *Gypsy and Traveller*

Sites sets out a number of criteria when sites and/or pitches will be permitted including where there is an identified need for a site.

Site Availability

10. Section 101 of the Housing (Wales) Act 2014 requires local housing authorities to assess Gypsy and Traveller housing needs every 5 years. Paragraph 16 of WG Circular 005/2018 confirms that Gypsy Traveller Accommodation Assessments (GTAAAs) will be a key part of the evidence underpinning and informing development plans. The existing GTAA for Bridgend Council is time expired and work has commenced on a replacement, however, there have been delays caused in part by the pandemic. The new GTAA has not been approved and has no formal status. Therefore, I have attributed little weight to it.
11. Policy COM6 of the LPD provides that sites and/or pitches to accommodate Gypsies will be permitted where the criteria set out in the policy is met. The first two criteria require there to be an identified need and it should be demonstrated that there are no suitable sites within settlement boundaries and, if this cannot be shown, that there are none available within the curtilage of an existing development in the countryside.
12. By reference to the expired GTAA for the area, there is no shortfall in Gypsy accommodation, however, the Council was clear at the hearing that this is not the case at present and that there is an unquantified need for Gypsy accommodation. Proposals to address this need cannot progress until the replacement GTAA is adopted and there is no available timescale for this. The result for the purposes of this appeal is that there is an acknowledged need for additional pitches and no timescale for delivery.
13. In terms of alternatives to a new site in the countryside, the appellants have not provided any evidence of consideration of alternative options.
14. Regional working between Councils was explored at the hearing, but the Council witness was unaware of any such work and so there is no indication that pitches in neighbouring authorities may be available. The Council has confirmed that no alternative sites have been identified.
15. Neither party has demonstrated a consideration of alternative sites. The evidence for the Bridgend administrative area is that no alternatives are known to be available and there is nothing to suggest alternatives for the family would be available elsewhere. There is nothing to indicate from the appellants that they have access to any land other than the appeal site. In general terms I concur with the Council that there is an unmet need for additional sites in the area, but it is not possible for the level of need to be quantified.

Site Location

16. The third criteria set out in policy COM6 is that the site should be well related to community services and facilities. The Council states that the appeal site is in an unsustainable location and intended occupiers would be reliant on car travel in conflict with policy SP2(6) of the LDP which requires development to have good walking, cycling, public transport and road connections within and outside the site.
17. I note that the appeal site is approximately 1km from the nearest village, Coity, which has a limited range of services including a pub, a post office, a church and a florist shop. As set out in the *highway safety* section below, the rural road network serving the site is generally single track, the access to the site is unlit, narrow and unevenly surfaced with no separate footway. These conditions together with the lack of a range of goods and services within walking distance would be a deterrent to prospective occupiers choosing to walk or cycle from the site. It is likely there would be a reliance on the use of a car.

18. The appellants have stated that there is a registered footpath close to the site which leads to Coity although due to Mrs Price's health issues, she would not be able to walk to the village.
19. Policy ENV 1 gives scope for certain residential development including Gypsy sites in the countryside. The Council acknowledged at the hearing that the fact that the site is not within walking distance to goods and services does not mean that permission should be withheld for that reason alone. It follows, therefore, that the highway conditions being generally unsuitable for walking does not mean that the site is inaccessible. The site falls outside the settlement and there is consensus between the parties that car use would be necessary for most daily trips. In this case, the site is not so far removed from the settlement that those car journeys would be significant.
20. I heard that there is no bus service for Coity, however, the Council confirmed that there is a regular service every 20 minutes which serves Porthcawl, Bridgend and Talbot Green, all large centres with a full range of facilities and services. The nearest bus stop to the site is at Brackla which the Council confirmed to be a short drive away from the site. The appellant confirmed that schools and a hospital are in comfortable driving distance.
21. Overall, I am satisfied that the location of the site could be considered acceptable subject to the development meeting other planning policy requirements. In reaching this conclusion I am mindful of the advice set out at paragraph 39 of WG Circular 005/2018 for a realistic approach to considering alternatives to car use in countryside locations and that an over-rigid application of planning policies which seek a reduction in car borne travel should be avoided.

Highway Safety

22. Access to the site is obtained directly off Smallholdings Lane which is an unadopted cul-de-sac serving a dwelling near the junction with Hendre Road, the appeal site and a small cluster of dwellings at the head of the cul-de-sac. The lane is narrow with sufficient width for only one vehicle to traverse. Even two small cars would not be able to pass in opposite directions. Mature tall hedges line each side of the lane such that vehicles cannot pull onto a verge. There are no clear passing places between the junction with Hendre Road (a distance of approximately 250 metres) and the appeal site albeit there is a recess adjacent to the gated access to the appeal site which allows space for a vehicle to pull-over. Other than this space, the only option when a vehicle meets another travelling in the opposite direction is for one to reverse.
23. The need to reverse for a distance would be inconvenient to drivers, however, the alignment of the lane between the junction with Hendre Road and the appeal site is generally straight and there is no reason to suggest the reversing manoeuvres would have restricted visibility. The characteristics of the lane mean it is unlikely vehicles would be travelling fast and the forward visibility on this section of the lane means drivers would be able to see ahead enough to see a car travelling towards them to allow them to stop once a car is seen. This would limit the distance vehicles would need to reverse to either the area near the junction or the area adjacent to the appeal site to well below the 250 metre length of this stretch of the lane.
24. Hendre Road is generally single track and although I heard from interested parties at the hearing that there are times when this can get very busy, it has a width and alignment which appears typical of many in rural areas and it passes through a residential area. At the time of my visit there were few cars using this road although I recognise that there will be times when the road is busy. In any event, the increased traffic caused by one residential development would be modest and the proportionate increase in traffic would

be lower if busier. The Council's officer report refers to a history of vehicle conflict on Hendre Road but gives no further detail and no evidence has been put forward by the Council to suggest that a single pitch would generate an unacceptable increase in traffic.

25. The council confirmed at the hearing that there is no concern with junction visibility, however my observations were that visibility when turning left into Smallholdings Lane from Hendre Road was difficult. I accept, however, that drivers would be likely to be driving at slower speeds due to the limited width of the highways on the approach to the junction.
26. I accept that the proposal is for a static caravan and a touring caravan to be sited and due to the restricted width of the lane, moving them onto the site could cause greater inconvenience to other drivers. However, the static caravan would only be moved onto the site once and the touring caravan would not be used daily. The proposal is for a single family to reside at the site. This means that the additional traffic associated with a residential use of the site would be modest. I am satisfied, therefore, that despite the limited width of the lane, that it could be used in association with the proposed development without risk to highway safety. A number of conditions have been proposed by the Council which would limit the use of the site to a single pitch and restrict commercial use of the site. I am also satisfied that the site could be adequately served by utilities including waste disposal and recovery in accordance with criterion 4 of policy COM6 of the LDP. Overall, I am satisfied that the proposed development would not pose an unacceptable risk to highway safety and would not conflict with policy SP3 of the LDP.
27. I have already found that there would be a reliance on car journeys for prospective occupiers and have set out the reasons why pedestrian access to the site would be unlikely. For this reason, I consider the risk of pedestrians using the site coming into conflict with vehicles would be low.

Character and Appearance

28. The site is in a countryside location with some sporadic residential development. The site itself has a large metal agricultural barn adjacent to the entrance which is clearly visible from the highway. The site also contains a more modestly sized stable building which is screened from public views by the hedge which is mature and over 2m high. Consequently, the existing character of the site itself is neither open nor undeveloped. It is against this existing character that I have assessed the impact of the proposed development.
29. The proposal includes the removal of the existing stable building and its replacement with a larger stable to be sited adjacent to the metal barn. At this location it would be screened from public views by the existing barn and the revised siting would facilitate the siting of the static caravan, touring caravan, and utility building in its place. This would mean that the structures to support the residential use of the site would be at the furthest point from the site entrance and this would minimise views of the caravans and utility building when viewed from the entrance to the site. Views of this part of the site from the highway are already well screened by the hedge between the site and highway. In this sense, the siting proposals are considered and logical.
30. The Council's concern is that the introduction of a residential use at the site would result in a change in character because of the introduction of domestic items. At the hearing, the Council witness stated that the introduction of caravans and other structures would introduce visual clutter creating an urbanised appearance.
31. Notwithstanding this, there are some permitted exceptions to policy ENV1 which allow residential development in the countryside including Gypsy sites. It is inevitable that a

change to a residential use of land will result in a change of character, but the Council has not pointed to any particular feature of this proposed development which would differ from any other new residential development. The fact that the building and caravans may be visible from certain viewpoints does not, in my view, mean that the change in character would be visually harmful particularly as there are existing structures present. Likewise, the presence of domestic apparatus such as washing lines would be expected in any residential use, certain categories of which could be permitted under policy ENV1. For this reason, the Council has not persuaded me that the development proposed would result in an unacceptable visual impact on the character and appearance of the area.

32. Furthermore, I am satisfied that the existing tall and mature hedging between the site and the highway offers sufficient screening of the site and prevents direct views from the public realm into the site. Accordingly, I am satisfied that a residential use at the site could be accommodated without detriment to the character of the area, satisfying criterion 5 of policy COM6 of the LDP.

Conditions

33. I have considered the conditions suggested by the Council and discussed at the hearing in the light of circular 016/2014 *The Use of Planning Conditions for Development*.
34. A condition requiring an arboricultural statement was agreed to be unnecessary as the development does not involve the removal of any trees. Conditions relating to off-site highways works were agreed to be unenforceable as they would have required improvement to land outside the control of the appellants. These have not been included.
35. A landscaping condition has been included so any additional planting and maintenance can be considered to maintain the screening which is provided by the existing hedge between the site and the highway. This should also include biodiversity enhancement such as the bat boxes the appellant has suggested.
36. I have added a condition to prevent the commercial use of the replacement larger stables to ensure a commercial element is not added to this development at a location where the local highway network would be sensitive to any further intensification of use.

Conclusion

37. I have considered this appeal against local planning policy related to the provision of Gypsy accommodation, and for the reasons set out above, consider that the proposal meets the criteria set out. Accordingly, the appeal should be allowed.
38. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

Janine Townsley

Inspector

Schedule of Conditions

- 1) The development shall begin not later than five years from the date of this decision.
Reason: To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) The development shall be carried out in accordance with the following approved plans and documents:
Plan/Drawing Nos. 04a,05a,06a,07a received on 20 February 2019; Amended Site Location/Block Plan Drawing No. 01c received on 22 July 2021; Amended Site Plan and Muck Heap Details Drawing Nos 03d and 08 received on 7 October 2019.
Reason: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.
- 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, and in order to ensure that the site is kept available to meet the needs of other Gypsies or Travellers in the future.
- 4) No more than two 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 highway safety and to comply with Policies SP2 and SP3 of the Bridgend Local Development Plan.
- 5) No commercial activities shall take place on the land including the storage of commercial plant, machinery or vehicles.
Reason: To protect the character and appearance of the area and to comply with Policies SP2 and SP3 of the Bridgend Local Development Plan.
- 6) The stables shall be used for the private stabling / use of horses incidental to the residential use of the site and shall not be used for livery or any commercial purpose.
Reason: To ensure that the highways use of the site is limited to residential use for highway safety and to comply with Policies SP2 and SP3 of the Bridgend Local Development Plan.
- 7) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the caravans Sites Act 1968, comprising of one static caravan and one touring caravan shall be stationed on the site at any time.
Reason: To ensure single family occupancy of the site, to protect the character and appearance of the area and to comply with Policy SP2 of the Bridgend Local Development Plan.
- 8) No development shall take place until full details of both hard and soft landscape works have been submitted and agreed in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include all proposed planting and landscaping such as a schedule of plants/trees, species and number/densities, hard surfacing materials, means of enclosures and implementation programme.
Reason: To maintain and improve the appearance of the area in the interests of visual amenity, to promote nature conservation and to comply with Policy SP2 and ENV6 of the Bridgend Local Development Plan.

- 9) 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 buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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 maintain and improve the appearance of the area in the interests of visual amenity, to promote nature conservation and to comply with Policy SP2 and ENV6 of the Bridgend Local Development Plan.

- 10) The existing hedgerow located along the eastern boundary of the site shall be retained at all times.

Reason: To protect the visual and local amenities of this countryside location and to comply with Policy SP2 of the Bridgend Local Development Plan.

- 11) No development shall take place until details of any external lighting and a programme for its implementation, have been submitted to and approved in writing by the local planning authority. All external lighting shall accord with the approved details.

Reason: To safeguard local visual amenities and to comply with Policy SP2 and ENV6 of the Bridgend Local Development Plan.

APPEARANCES

FOR THE APPELLANT:

Mr A Vaughan-Harries Agent

Mrs L Price Appellant

Ms Garnett

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Thomas Planning Officer

Mr R Morgan Highways Officer

INTERESTED PARTIES:

Mrs S Williams Neighbour

Mr Williams

DOCUMENTS SUBMITTED AT THE HEARING

1. Report and Summary Information from Senedd Cymru “Welsh Government and local authorities failing Traveller communities” 10/08/22 together with consultation responses.