



PLANNING STATEMENT AND JUSTIFICATION REPORT **REVD**

FOR THE CREATION OF ONE TRAVELLER / GYPSY PITCH WITH ONE
RESIDENTIAL STATIC UNIT, TOURING CARAVAN, CONVERSION OF PART
OF EXISTING STABLE BLOCK TO CREATE A UTILITY/DAY ROOM WITH
IMPROVED ACCESS, PARKING AND TURNING AREA

**LAND BETWEEN CWMAVON AND DAN Y BONT, MAES Y BETTWS,
PONTRHYDYFEN, NEATH, SA12 9SD**

21st February 2023



Photograph of the application site with approved and delivered stable

Application for Full Planning Permission Town and Country Planning Act 1990

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Att Ms Megan Thomas – Senior Planner

HAYSTON DEVELOPMENTS & PLANNING LTD is making an application on behalf of Mr James Janes for the following planning permission:

- **Proposal:** The use of land for the creation of one traveller / gypsy pitch with one residential static caravan, touring caravan, conversion of part of an existing stable block to create a utility/day room, improved access, parking and turning.
- **Site location:** Land between Cwmavon and Dan Y Bont, Maes y Bettws, Pontrhdyfen, Neath SA12 9SD.
- **Type of Planning Permission:** Full
- **National and Local Planning Policy & Guidance:** Planning Policy Wales Edition 11, Circular 005/2018 (Planning for Gypsy, Traveller and Showpeople Sites) June 2018, The Housing (Wales) Act 2014, Designing Gypsy Traveller Sites Guidance May 2015, LDP Policy SC1, GT1 and GT2. The Well-being of Future Generations (Wales) Act 2015, advice issued by the Head of Equalities, Welsh Government on 26th March 2020 and Travelling Ahead – TGP Cymru, following the outbreak of the Corona Virus pandemic and recent Welsh Government Guidance for those supporting Gypsy and Traveller Communities: Covid Virus (10th June 2020).

1.0 INTRODUCTION

1.1 The following documents support this planning application-

- **Planning Statement and Justification Report** (this document) **Application Form** and associated certificate of ownership
- **Drawing 01c** –Expanded Location Plan at Scale A3 @ 1:12500.
- **Drawing 02c** - Location and Block Plan at Scales A3 @ 1:2500 and 1:500
- **Drawing 03g** – Proposed Site Plan at Scale A3 @ 1:500 with relocated muck heap 28 metres from watercourse
- **Drawing 04a** – Existing Stable Block Floor Plan Scale @ 1:50

- **Drawing 05a** – Existing Stable Block Elevations Plan Scale @ 1:100
- **Drawing 06b** – Existing Stable Block Floor Plan Scale @ 1:50
- **Drawing 07d** – Proposed Stable Block & Utility / Day Room Elevations Plan with Ecological improvements Scale @ 1:100.
- **Drawing 09a** – Muck Heap Details Scale A3 @ 1:50 (amended to include a cover)
- **Drawing 10** – Photo Montage Sheet
- **Drawing 11** – Tree Constraints & Protection Drawing at Scale A3 @ 1:500
- **Drawing 12** – Ecological Site Enhancements at Scale A3 nts
- **Appendix A** - The applicant's details and Gypsy Status (**PRIVATE & CONFIDENTIAL**)
- **Appendix B and C** - advice issued by the Head of Equalities, Welsh Government on 26th March 2020 and Travelling Ahead – TGP Cymru, and Welsh Government Guidance for those supporting Gypsy and Traveller Communities: Covid Virus (10th June 2020).
- **Appendix D** – Appeal decision APP/Y6930/C/17/3188952
- **Appendix E** – BS5837:2012 Tree Survey and Arboricultural Impact Assessment (October 2021 Elite Ecology)
- **Appendix F** – Preliminary Ecological Appraisal (November 2021, Elite Ecology)
- **Appendix G** – Coal Mining Risk Assessment Opinion by Rhondda Geotechnical Services in letter dated 26/07/21
- **Appendix H** – Flood Consequence Assessment Opinion / Map by Francis Sant Ltd dated 26th October 2021
- **Appendix I**—Bat Activity Survey Report, I & G Ecology, November 2022
- **Appendix J**- Reptile Survey and Mitigation Report, I & G Ecology, September 2022
- **Appendix K** – Sewer Plan
- **Appendix L** – Supportive Letter from Travelling Ahead, Gypsy, Roma and Traveller Advice & Advocacy Service dated 21/12/22
- **Planning Fee:** £460.00 (based on size of utility / day room of 24.5sqm and change of use)

1.2 This report is prepared in accordance with the requirements of Policies contained within the Local Development Plan for Neath and Port Talbot and the Welsh Government Development Management Manual (05th May 2017).

1.3 As shown in Appendices G & H an opinion of whether a Flood Consequence Report and a Mining Assessment Report was sought from Francis Sant Ltd and Rhondda Geotechnical Services Ltd and both professional opinions were that they were unnecessary.

1.4 PREAMBLE

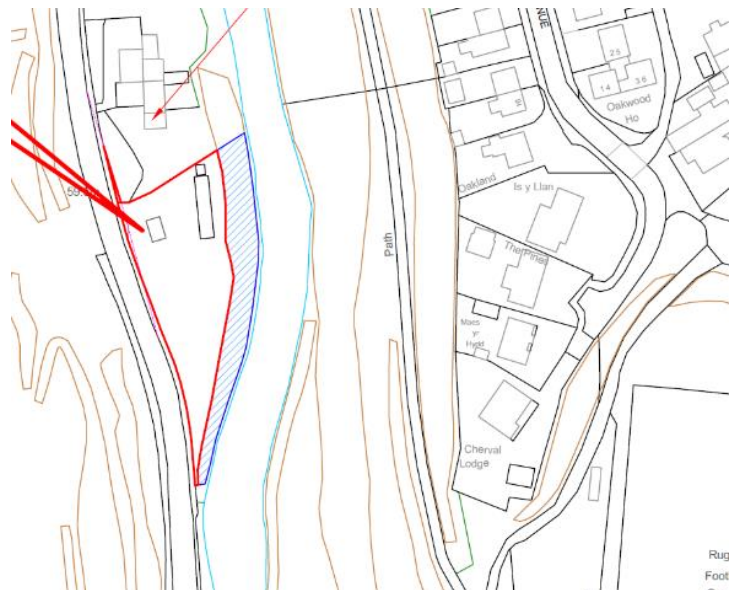
This application was registered on 10th August 2022 and there have been several updates and new information to try and identify a suitable development for a traveller pitch on this brownfield site with an extant permission for a stable.

PLEASE NOTE APPENDIX A IS MARKED AS PRIVATE AND CONFIDENTIAL AND NOT FOR THE PUBLIC DOMAIN. IF THIS REPORT IS MADE AVAILABLE ON THE WEBSITE THIS INFORMATION SHOULD BE REDACTED

2.0 THE APPLICATION SITE AND PLANNING BACKGROUND

2.1 The triangular shaped parcel of land in the client's ownership extends to 0.214ha and is located immediately to the west of Maes y Betws, B4286, with the River Afan gorge to the east and the centre of the village of Pontrhydyfen lies approximately 600m to the north. The application site is relatively flat, surrounded by timber fencing and is surfaced in hardcore and has a 300m frontage to Maes y Betws with a maximum width of 60m tapering to 10m along the southern boundary. There is significant natural semi mature tree screening along both the western and eastern boundaries. The existing vehicular access onto Maes y Betws is located in the north western corner and is shared with the owner of the land to the north giving access to a group of stables and workshop.

2.2 The northern part of the application site is occupied by a small storage shed and a block of 4 stables and tack room. This shallow monopitch roofed building measures 17.8m x 4m wide and a maximum height of 5m is constructed in rendered block work with a metal sheeting roof. Planning permission (Ref 2010/0070) for this building together with improvements to the access was approved on 1st April 2010.



Scan of Drawing 01c showing the proposed application site location



Photograph showing the block of stables and small storage shed

3.0 THE FAMILY MEMBER DETAILS AND GYPSY STATUS

3.1 A private and confidential report on the applicant and his family's personal details and Gypsy status is contained in **Appendix A**. **Under the General Data Protection Act 2018 these details should not be available for publication or public scrutiny.** Additional questions have also been raised by the LPA / Case Officer which have been answered within an email.

3.2 In summary, the report confirms the applicant belongs to a long-established Welsh Romani family with strong connections in South Wales and particularly in the Carmarthen, Swansea and Cardiff areas. He has enjoyed a traditional Gypsy lifestyle living in caravans for the majority of his life on numerous authorised and unauthorised sites. Mr Janes was rehoused in 2006 from the Shire Newton site by Cardiff City Council for the reasons explained in **Appendix A**.

3.3 In the interests of the health and welfare the applicant and his wife he wishes to return to a traditional culture living in a static caravan in a safe and tranquil environment close to other family members in the South Wales area. The reasons why the application site was purchased are fully explained in **Appendix A**. There are no alternative available private or public pitches available within the county to accommodate the family's needs.

3.4 The family's lifestyle falls within the definition of Gypsies in paragraph 2 of the Welsh Assembly Government Circular 005/2018 - Planning for Gypsy, Traveller and Showpeople Sites. They are:

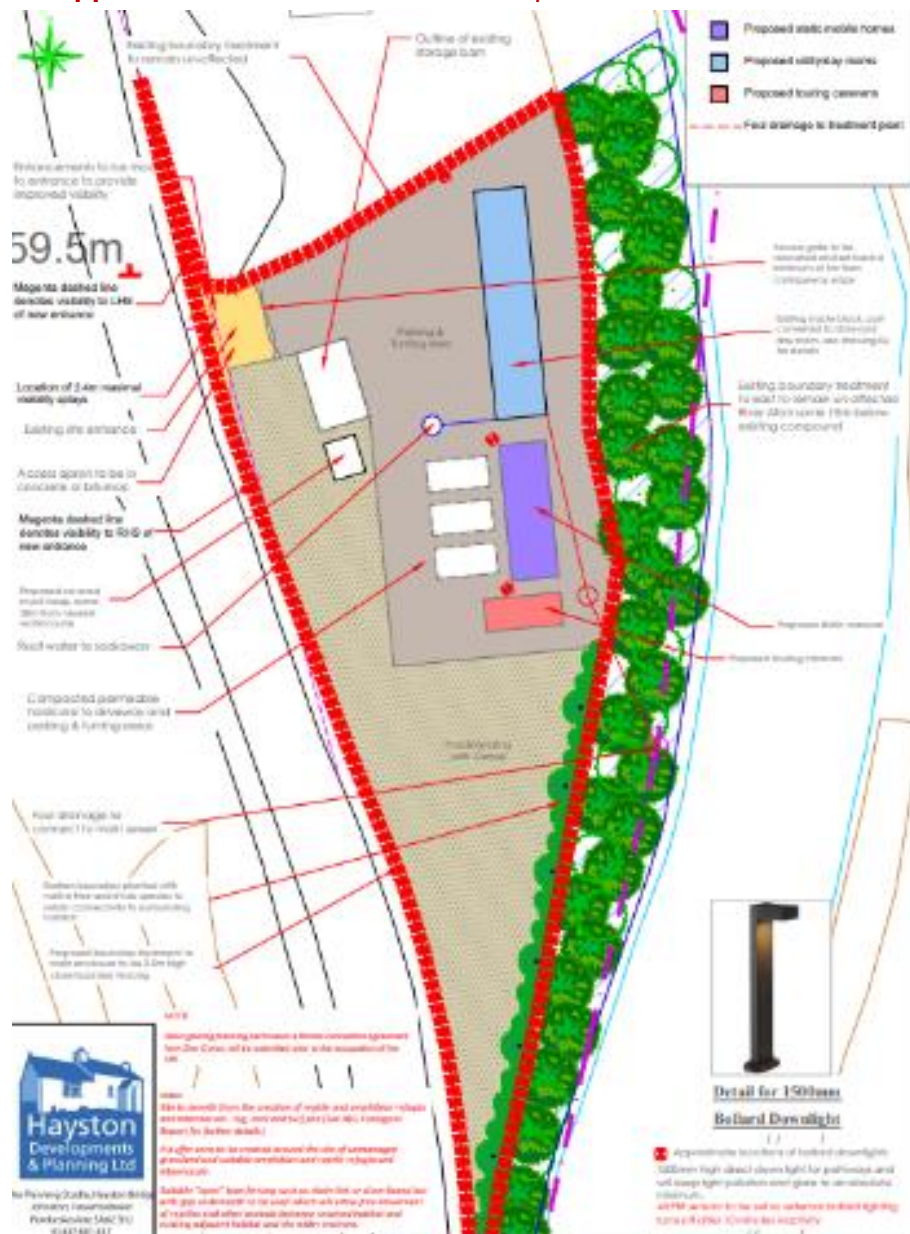
- a) Persons of a nomadic habit of life whatever their race or origin, including -*
(i) "Persons who, on grounds only of their own or families or dependent's educational or health needs or old age, have ceased to travel temporarily or permanently, and
(ii) Members of an organised group of travelling show people or circus people (whether or not travelling together as such); and
b) All other persons with a cultural tradition of nomadism or of living in a mobile home.

4.0 THE PROPOSAL

4.1 The application comprises of several components the details of which are shown on drawings **03g, 06b, 07d** and **09a** and summarised below:

- a) The siting of a static residential caravan immediately to the south of the existing stable block 8m from the eastern boundary.
- b) The conversion of the southern part of the existing stable block to create a day/utility room. The internal and external walls will be insulated and finished in timber clad panelling with a horizontal emphasis. The existing openings will be replaced with a new entrance door and windows finished in either timber or Upvc. The roof will be replaced by new insulated metal profile grey sheeting. Low intensity down lighting will be provided on the front elevation and a bird box erected on the south facing elevation.

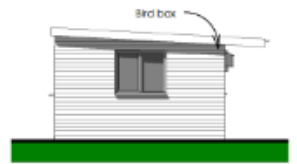
- c) The existing shared vehicular access point will be retained with the inward opening entrance gates moved back to 6m from the carriageway and the apron resurfaced in concrete or bitumen. Visibility splays of 65m to the south and 50m to the north will be provided by setting the existing fencing back and removing overhanging branches. The surface of internal access drive, turning and parking area will be improved with clean compacted permeable hardcore.
- d) Space for the parking of a touring caravan will be provided to the south of the proposed static caravan.
- e) A small, three-sided muck heap enclosure **with roof cover** will be provided **on a relocated position to the west of the site 28 metres from the river to the east. Please note the existing stables approval 2010/0070 has no muck management plan.**
- f) The caravan and day/utility room will be provided with soakaways for rainwater and foul water **to the main sewer** located to the **east** of the proposed parking space for the touring caravan. **See Appendix K which shows the sewer plan for the area.**



Scan of Drawing 03g showing the proposed site



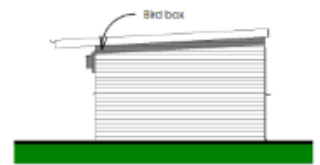
West Elevation



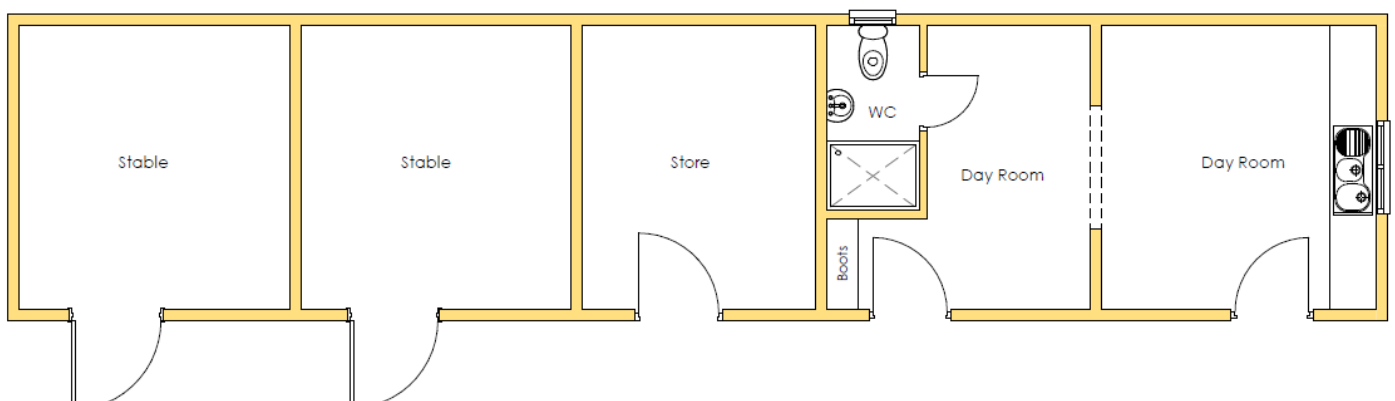
South Elevation



East Elevation



North Elevation



Scan of **Drawing 06b** showing the proposed stable block and utility / day room floor plan

5.0 NATIONAL PLANNING CONTEXT

5.1 National advice on Gypsy and Travellers is contained in Circular 005/2018 published in June 2018 and Paragraph 2 refers to Section 108 of the Housing (Wales) Act 2014 where Gypsies and Travellers are defined as:

- a) ***Persons of a nomadic habit of life, whatever their race or origin, including -***
 - (i) ***“Persons who, on grounds only of their own or families or dependent’s educational or health needs or old age, have ceased to travel temporarily or permanently, and***
 - (ii) ***Members of an organised group of travelling show people or circus people (whether or not travelling together as such); and***
- b) ***All other persons with a cultural tradition of nomadism or of living in a mobile home.***

Section 101 of this Act also placed a duty upon local authorities to ensure that the accommodation needs of Gypsies, Travellers and Showpeople are accurately assessed and the identified need for pitches is met. This requirement is also contained in the Circular requiring Local Authorities to assess the

accommodation needs of not only Gypsies and Travellers but Showpeople residing in any county and make provision on either public or private sites.

5.2 Circular 005/2018 advises that where a need for additional pitches has been identified through a GTAA a sequential test needs to be undertaken to assess the availability of suitable sites within or adjacent to existing settlements (paragraph 38). However, this does not preclude consideration of other sites away from existing settlements being put forward by members of the gypsy community as paragraph 39 states *'Sites in the countryside, away from existing settlements, can be considered for Gypsy and Traveller sites if there is a lack of suitable sustainable locations within or adjacent to existing settlement boundaries. In assessing the suitability of such sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. Over rigid application of national or development plan policies that seek a reduction in car borne travel in order to effectively block proposals for any Gypsy and Traveller Site in a countryside location would be inappropriate. Sites should be considered in context and in relation to the local infrastructure, population size and density to ensure they are in proportion to local settled communities'*.

National and Welsh Government Advice on Covid 19 (Issued on 10th June 2020).

5.3 The global pandemic, COVID-19, obviously also has had an immediate (and will have a long-term impact) to how we live. Obviously, groups of people living together (i.e. residential homes and Gypsies and Traveller sites) are more vulnerable and have already been disproportionately affected. There is no doubt that the provision of future public sites and existing sites require consideration attention by authorities, especially as many existing sites are overcrowded. It therefore goes without saying that the need for lower density pitches (with adequate living accommodation and utilities) will be required more than ever.

Because of the above the Government has produced guidance on mitigating the impacts on gypsy /traveller communities. This is obviously being updated as needed and you will have the latest versions, however, we attach guidance we have obtained ourselves just for information. The letter by Lord Greenhalgh, Communities Minister, written to local authority chief executives to highlight this situation indicates *"Social-distancing or self-isolation may be particularly challenging for members of these communities due to often confined and communal households, and restricted living conditions on many sites. In addition, we know that some families lack basic amenities including running water, adequate sanitation, and refuse disposal facilities, all of which are essential to limit the spread of the virus and keeping people safe....."*.

Appendix B and C accompanying this submission refers to advice issued by the Head of Equalities, Welsh Government on 26th March 2020 and Travelling Ahead – TGP Cymru, following the outbreak of the Corona Virus pandemic. As there is no end date in sight regarding the pandemic, the advice contained in both documents are material considerations.

In respect to this particular private site, where such sites are available (and do not cause any planning harm) it is considered they clearly need to be supported. This site provides a safe home for the applicant and his wife close to other relatives in the Swansea area. Whilst it is appreciated that the Authority is attempting to deliver public traveller sites in LDP policy GT 1

however, the COVID pandemic has clearly changed the outlook in respect of what densities are acceptable in terms of social distancing measures and the need to avoid shared sanitary facilities. The application site will provide a safe and tranquil environment for the applicant and his wife.

6.0 CURRENT PLANNING POLICY

6.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires that planning application decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In this case the statutory development plan is the Neath and Port Talbot Local Development Plan adopted in January 2016 to cover the period 2011 to 2026. As the applicant's lifestyle falls within the definition of Gypsies and Travellers in Welsh Assembly Government Circular 30/2007 - Planning for Gypsy and Traveller Caravan Sites and Section 108 of the Wales Housing Act, the relevant policy is Policy GT2 -Gypsy, Traveller and Travelling Showpeople site. Also, of relevance is the Gypsy and Traveller Accommodation Assessment 2016 (GTAA).

6.2 THE GYPSY AND TRAVELLER ACCOMMODATION ASSESSMENT

Sections 101 to 103 of the Housing (Wales) Act 2014 which requires local authorities to assess the accommodation needs of Gypsy and Travellers within their area and that where there is an identified need sufficient site(s) should be allocated within the Council's LDP to address that need. Section 108 of the Wales Housing Act 2014 sets out that Gypsies and Travellers – means persons of a nomadic habit of life, whatever their race or origin, including persons who, on grounds only of their own or their family's or dependant's educational or health needs or old age, have ceased to travel temporarily or permanently, and members of an organised group of travelling show people or circus people (whether or not travelling together as such), and all other persons with a cultural tradition of nomadism or of living in a mobile home.

6.3 Part 3 of the Housing (Wales) Act 2014 required Local Housing Authorities to carry out a new assessment of the accommodation needs of gypsies and travellers residing in or resorting to its area during 2015. The Authority undertook its own assessment, and a final report was published in February 2016. The resultant document, Gypsy and Traveller Accommodation Assessment (GTAA) concluded the county has an established Traveller and Gypsy community of 56 pitches on 3 sites. Following the findings of the previous 2012 GTAA the Local Development Plan (LDP) for the County Borough made further provisions for an extra 11 pitches at the existing Cae Garw site near Margam to accommodate the identified short to medium term need of 4 pitches for the period 2012 – 2017 and 7 pitches for the period 2018 – 2022. Due to the statistical inaccuracies associated with predicting the longer-term needs of the Gypsy and Traveller community, who by their very nature have nomadic lifestyles, it was the Council's view that the remaining need for 9 pitches would be reviewed as part of the LDP's Monitoring Framework and addressed by the Plan's Annual Monitoring Report (AMR) – this was subsequently endorsed by the Inspectors in their binding report.

6.4 Using the Welsh Government guidance 'Undertaking Gypsy and Traveller Accommodation Assessments' the 2016 GTAA was undertaken in-house by the Authority's Housing Strategy and Planning Policy Sections with input from the Estates' section of the Authority to collect the primary data for the study through interviews / questionnaires. The Study identified no need (an oversupply of 3 pitches) in the short term (2016 – 2021) with 4 pitches required on public residential sites towards the end of the LDP period (2022 – 2026). This need takes into account the supply resulting from the 11 pitches

that received planning permission in February 2015 and the two pitches on the Briton Ferry site that were brought back into use. The study concluded the need for pitches would be assessed through the Annual Monitoring Report. There is no indication of where the further public pitches will be located, when planning permission will be applied for or whether funding will be available for the delivery of the additional pitches over the plan period. There is a degree of uncertainty about the Council's future intentions to deliver these extra pitches over the plan period or to cater for an unforeseen need arising from the Gypsy community.

6.5 The Gypsy community is generally self-reliant and reluctant to speak to authority representatives as they are very private persons. They do recognise they represent a small proportion of the overall County population; however, they do have accommodation needs with new family 'households' being created due to the age profile of their community or for family circumstances. From this practice practical knowledge of the Gypsy community in South Wales the population is not neutral in that new 'family households' are formed at a relatively young age with a consequent demand for additional pitches being required. This fact does not appear to be recognised in the GTAA.

6.6 The supporting text in the GTAA suggests there is an aspiration within the Gypsy Traveller community for private sites and the council will work with and support Traveller households to identify and develop viable private sites to address any identified unmet need in accordance with adopted LDP Policy framework. The applicant trusts this will be the case in determining this application which has identified an urgent need for a pitch, demonstrated by the lack of alternative private or public sites in the county and has brought forward this site very close to the settlement of Pontrhydyfen as a viable solution for their accommodation needs.

6.7 **It is evident that any unmet need for additional pitches will, over the next few years, only be satisfied by the provision of private sites brought forward by the gypsy community.** The current proposal is for the applicants to establish the site as their home as they cannot be accommodated on any other private authorised site within the County. The current policy is insufficiently flexible to cater for any unexpected demand for new pitches arising from the indigenous Gypsy community. Significant weight should be given to the lack of alternative sites within the county.

6.8 In the event of planning applications being submitted by either public or private sector parties, where a need has been identified, Policy GT 2 is criteria-based against which such applications will be assessed.

Policy GT 2 – Proposals for new Gypsy, Traveller and Traveller Sites

Sites and/or pitches to accommodate Gypsies and Travellers residing in, or resorting to, the County Borough will only be permitted where all the following criteria, where relevant, are satisfied:

1. Sites will be allowed outside settlement limits only when it has been demonstrated that there are no suitable sites or pitches available within:
 - (a) The allocated Gypsy Site at Cae Garw (GT1), or within other existing authorised Gypsy and Traveller sites in Neath Port Talbot; or

(b) Within existing settlement limits.

2. The site is in a sustainable location within reasonable distance of community facilities (including education) and transport links including walking and cycling routes,
3. The site has or would have a good standard of utilities including water supply, power, drainage, sewage disposal, waste disposal (storage and collection) and safe play areas for children,
4. The site will not be detrimental to residential amenity or the environment,
5. The site can accommodate home-based business uses where required without detrimentally affecting the amenity and character of the area,
6. The site can accommodate a safe and convenient access to the highway network and would not compromise highway safety and can provide an appropriate layout, in terms of pitches, parking and manoeuvring of vehicles, amenity buildings, hard standings and open spaces.

ANALYSIS OF THE CRITERIA IN POLICY GT 2

6.10 The GTAA (2016) identified there was no need for any additional pitches in the short term (2016 to 2021) in fact, it concludes there is an oversupply of 3 pitches, with 4 pitches required on public sites between 2022 and 2026. Policy GT 1 indicates that any additional pitches will be accommodated on the council run Cae Garw site where there is already a waiting list for pitches. The Council cannot demonstrate or identify where any unforeseen unmet demand will be located or when they can be delivered as required under the Wales (Housing) Act and Circular 005/2018 which is a significant material consideration in any planning decision for Gypsy accommodation sites.

6.11 Policy GT 2 sets out the criteria for assessing such planning applications through the development management process. Criteria 1 states new sites will be allowed outside settlement limits only where it has been demonstrated there are no suitable sites or pitches available within (a) existing authorised sites (Cae Garw) or (b) within existing settlements.

6.12. Following Mrs Janes's stroke Mr Janes has sought several private sites in Carmarthenshire and Swansea, but none were available. Early last year he visited the Council Cae Garw site on several occasions and made inquiries with the site warden regarding the availability of pitches. The warden commented that he was unaware of the availability of either public or private sites within the County but advised there may be pitches available on the Cae Garw site. However, Mr Janes was unlikely to be successful should he formally apply to the Authority primarily as preference is given to families already residing on the site. At that time, he was aware of a number of families living on the site who were not prepared to accept unrelated families which would probably lead to the threat of violence and he would be fearful for his and his wife's safety. (These issues were high-lighted in the Inspectors report on the appeal decision (APP/Y1138/3222285) for two pitches on land at Riverside Stables, Tyn Yr Heol Access Road, Pen y Bryn, Pyle (Ref App/Y6930/A/17/3188952 and 3188919 - August 2018 **APPENDIX D**). The actual process for allocating pitches appears to be discriminatory and rather dubious. Such an overcrowded site was also considered unsafe during the current Covid pandemic where many of the facilities are shared with other families.

6.13 A letter of support from Rhiannon Jones, Engagement Officer with 'Travelling Ahead – Gypsy, Roma and Traveller Advice & Advocacy Service' will be submitted soon on the Cae Garw site.

6.14 In May 2020, while looking for a suitable site in the Neath area, he came across the application site which was for sale. This site suited Mr Janes' requirements as it had an authorised stable block to accommodate his horses, was large enough to accommodate a static caravan and tourer in a tranquil and safe environment, was close to the village centre and to family relatives. Mr Janes purchased the property in September 2020.

6.15 The applicants are fully aware there are currently no public pitches available and there is a waiting list for either vacated sites or any new sites which may be made available after 2022. Furthermore, there are certainly no public or private authorised sites available within existing settlements. For this reason, attention is drawn to paragraphs 38 and 39 of Circular 005/2018 which post-dates both the current LDP and the 2016 GTNA and is the most up to date national policy guidance. This application site is in a countryside location, just outside the settlement boundary of Pontrhydyfen and within 500m walking distance to the village centre consistent with national planning policy. The adopted LDP advocates strict control in such areas, although the provision of Gypsy and Traveller accommodation is cited as an exception to such strict control by the provision of criteria in Policy GT 2. Such exceptions are consistent with the advice in section 39 of Circular 005/2018 which gives preference to new sites in sustainable locations close to existing settlements whilst Paragraph 39 does not preclude sites in the countryside away from existing settlements.

6.16 Considering the above, Criteria 2 recognises that new sites can be permitted if it is located in a sustainable location within reasonable distance of community facilities and transport links. Whilst the term 'reasonable' is not defined the application site is within a 600m walk to the village centre where there is access a limited range of shops to cater for most everyday needs of residents and there is a bus stop nearby, 150m to the north, giving access to Cwmavon and Neath and beyond. As Mrs Janes is disabled and has difficulty walking, they inherently rely upon the use of private modes of transport, and it is important that the application of policies that seek to reduce car borne travel are not rigidly adhered to. Circular 005/2018 advises over-rigid application of development plan policies that seek a reduction in car borne travel would not be appropriate as they could be used to effectively block proposals for Gypsy sites in rural areas outside of recognised settlement boundaries. The application site is therefore sustainable located with good access to facilities.

6.17 The application site has both an electricity and water supply. **The application has been amended to show a mains connection is now feasible and Appendix K shows the Welsh Water Sewer Plan. A note has also been put onto Drawing 03g "Upon gaining planning permission a formal connection agreement from Dwr Cymru will be submitted prior to the occupation of the site. This can be a Grampian style planning condition"**. Domestic waste will be placed in the appropriate coloured bags and left at the site access for collection by the Authority's waste collection service.

6.18 A check in respect to flooding has been undertaken and professional advice sought from Francis Sant Ltd (Carmarthen). In email correspondence on 18th February 2021 to Hayston

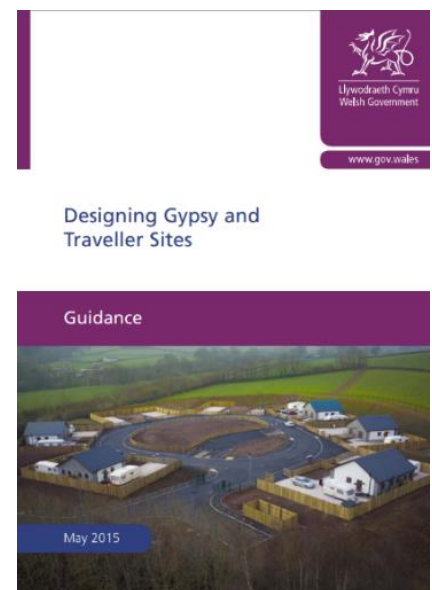
Developments and Planning Ltd, Francis Sant Ltd stated *“Your only likely to have to prepare an FCA if someone decides that the lower part of the bank is in a C2 flood zone. If they do, you can either prepare an FCA or just move the boundary up the bank....”*. Advice was also sought from Rhondda Geotechnical Services Ltd in respect to the need for a Mining Risk Assessment Report. In email correspondence to Hayston Developments and Planning Ltd also on 18th February 2021, Rhondda Geotechnical Services Ltd stated: *“Whilst the site is clearly in a High Development Risk Zone I believe it will not require a CMRA as it would fall within the exemption list.”*



**RHONDDA
GEOTECHNICAL
SERVICES**

6.19 Following this planning application being invalidated by the LPA and the request for further information, relevant assessments / reports were commissioned and are now contained in appendices E, F, G & H and drawings 11 & 12. Appendices G & H confirm that it is the professional opinion that the site is considered to be exempt from requiring a Mining Risk Assessment and is outside any floodzone.

6.20 The site has the capacity to unobtrusively accommodate the proposed pitch which is large enough to locate a low level mobile static residential caravan, parking for private vehicles and a touring caravan and provide safe outdoor play space for the applicant's grandchildren and private amenity space. The proposal also includes the conversion of part of the existing stable block to provide a day/utility room. The layout and design of the pitch reflects the standard layouts in Welsh Government advise for Gypsy developments “Designing Gypsy and Traveller Sites, May 2015”. These facilities allow the applicants to have a settled and tranquil base.



6.21 Criteria 4 of Policy GT 2 also requires the proposed development not to have a detrimental impact on residential amenity or the character of the surrounding environment. The application site has an authorised stable block along the eastern boundary and lies immediately to the south of an existing larger stable block and workshop complex. The existing stable block and the proposed caravan, parking area and space for a touring caravan are located toward the easterly side of the site. The nearest residential properties are located in Oakwood Avenue, 100m to the east, separated by the deep gorge of the River Afan, substantial tree cover and the site is relatively well screened when viewed from the B4286. As the structures are low level in nature and scale, the impact on residential amenity and the surrounding landscape will be minimal.

6.22 The site has an existing vehicular access onto the B4286 which is shared with the owner of the larger stable block and workshop located on land immediately to the north and at this point the access onto the B4286 lies within a 30mph zone. There is a footpath extending along the eastern side of the carriageway leading into Pontrhydyfen. The 2010 planning permission for the

stable block required the access and gates be moved back 6m from the carriageway edge into the site. These works appear not to have been fully completed by the previous landowner. The applicant is proposing to improve the access to provide a surfaced apron and the gates set back 6m with inward opening gates leading to a newly surfaced parking and turning area. The applicant has cut back existing undergrowth and overhanging branches within the visibility splay on land in his ownership to achieve a splay of 55m to the north and 65m to the south. The applicant only intends to use the site as one family pitch with no business use carried out which will not generate a significant increase in vehicular movements over and above that generated by the authorised use to compromise highway or pedestrian safety.



Photographs shown in Drawing 10 showing the access and B4286

7.0 OTHER MATERIAL PLANNING CONSIDERATIONS

7.1 Article 8 of the European Convention on Human Rights as enshrined in Section 8 and 14 of the Human Rights Act 1998 gives paramount respect and importance to protect private and family life, as well as the public sector duties under the Equality Act 2010. These must be afforded an importance or weight as great as any other material consideration prior to examination of the circumstances of the case. The lack of alternative sites within the current plan period, the personal circumstances of the family, contained in **Appendix A**, and the rights to a peaceful and safe family life have significant weight to overcome the perceived harm the development would have on this well screened rural site which amount to 'very special circumstances' within the planning balance.

7.1 Article 8 of the European Convention on Human Rights as enshrined in the Human Rights Act 1998 gives paramount respect and importance to protect private and family life, as well as the public sector duties under the Equality Act 2010. They must be afforded an importance or weight as great as any other material consideration prior to examination of the circumstances of the case.

7.2 During the last three years the applicant has carried out a sequential test of other sites in the County, neighbouring Swansea and Carmarthenshire and discovered there are no private or public sites currently available and are unlikely to be in the future. Any private sites, with a potential capacity for either intensification or extension, are reserved for the owner's future generations. It has therefore been demonstrated that there is a lack of a supply of sites to meet the unmet demand for new sites, contrary to the requirements in The Wales Housing Act and Circular 005/2018, resulting in this site being put forward for consideration as there are no alternative sites available. The lack of alternative sites within the current plan period, the personal circumstances of the family, contained in **Appendix A**, have significant weight to overcome the perceived harm the development would have on this well screened rural site.

7.3 The Housing (Wales) Act 2014 placed a new general duty on local authorities to provide such sites where there is evidence of a general need within their area and, where such a need is identified, it has become mandatory for a local authority to make land available for a site. However, the GTAA has not identified a need for additional pitches and, as such, no sites are identified in the LDP. Nevertheless, the applicant has identified a genuine and urgent need for a site capable of providing a safe and tranquil environment. Consequently, Mr Janes has no option other than to put this site forward for consideration as he has a genuine immediate accommodation need which cannot be satisfied through any public authority. A bricks and mortar property is not acceptable to enable he and his wife to return to a cultural way of life. Significant weight should be given to the lack of any alternative sites within the county.

7.4 In respect of the personal circumstances of the applicants and the lack of alternative private or public pitches available within the county attention reference is made to two appeal decisions relating to similar circumstances for two pitches on land at Riverside Stables, Tyn Yr Heol Access Road, Pen y Bryn, Pyle (Ref App/Y6930/A/17/3188952 and 3188919 - August 2018 **APPENDIX D**). In determining the appeals, the Inspector examined four main issues: -

- 1 Whether the principle of the development is justified in its countryside location.
- 2 The effect of the development on the character and appearance of the area, having particular regard to the designated Special Landscape Area,
- 3 The impact of the development on the openness of the Green Wedge
- 4 Whether any identified harm would be clearly outweighed by very exceptional circumstances.

7.4a The Inspector accepted the site's countryside location however, noted that Criterion 2 of Policy GT 2 which allows sites outside settlements when it has been demonstrated that there are no suitable sites or pitches available within the allocated site at Cae Garw, within other existing authorised sites in the County or within settlement limits. Following analysis of the evidence, the Inspector considered, in the best interests of the appellant's family, Cae Garw is not suitable and is already at capacity. It was accepted and well-established through case law that there is no requirement for site proponents to prove non-availability of alternative sites in such cases.

7.4b It was accepted that the appellant's way of life inherently relies upon the use of private modes of transport, and it is important that the application of policies that seek to reduce car borne travel are not rigidly adhered to.

7.4c The Inspector noted the appeal site was close to an area of land used for the storage of caravans, similar to the current application. Nevertheless, the development would be harmful to the character and appearance of the immediate environs. However, this was outweighed by the personal circumstances of the appellants as the site would provide the opportunity for the family to enjoy a peaceful and safe existence and allow the children to receive an education. The Inspector concluded the best interests of the children are a primary consideration and that such matters merit substantial weight in the planning balance. Furthermore, the unavailability of any suitable alternatives amounts to very exceptional circumstances that clearly outweigh any harm that would be caused. The appeal was allowed on a permanent basis for persons belonging to the Gypsy community.

This appeal decision raises similar issues to the current proposal and is a material consideration in the determination of the application.

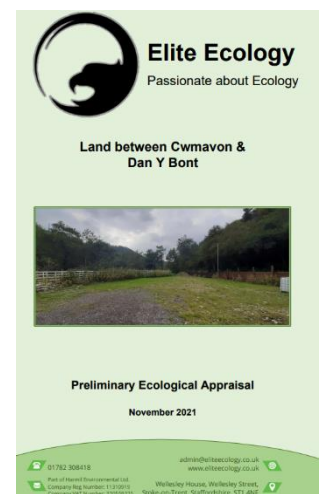
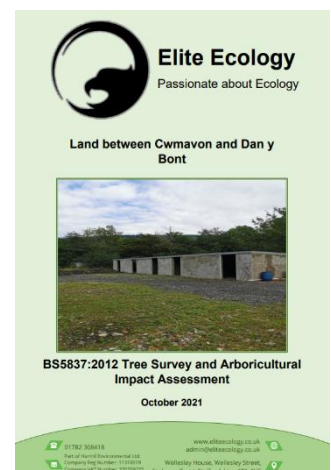
7.5 Circular 005/2018 and 016/2014 advise that, when there is a proven need for new Gypsy accommodation, where there are no readily available sites identified, warrants a permanent planning permission provided the criteria lead LDP policy is met. Temporary permissions create considerable uncertainty resulting in a reluctance to invest in developing a site. Furthermore, the generic condition in respect of occupancy should be imposed as follows – *'The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 2 of Circular 005/20018 'Planning for Gypsy, Traveller and Showpeople Sites'*. The naming of occupants is no longer appropriate as this restricts the freedom of movement within the Gypsy Community.

8.0 TREE SURVEY AND ARBORICULTURAL IMPACT ASSESSMENT (ELITE ECOLOGY, APPENDIX E)

8.1 This report was commissioned following the invalidation of this planning application by the LPA. As detailed in the report and Drawing 11 no trees are affected and a group of trees to the east (G1) details protective measures for these native broadleaf species.

9.0 PRELIMINARY ECOLOGICAL APPRAISAL (ELITE ECOLOGY, APPENDIX F)

9.1 Again, this report was commissioned following the invalidation of this planning application by the LPA. As detailed in the report and reproduced on Drawing 12 some recommendations are suggestions and some mitigation is provided in Drawing 07c (bird box). The stables already has planning permission and half of it will remain for that use. Bat roosting opportunity is low as renovation work to the stables is currently being done.



10.0 BAT ACTIVITY SURVEY (I&G ECOLOGY CONSULTING, NOVEMBER 2022, APPENDIX I)

10.1 This report was commissioned following a consultation response by the Biodiversity Unit (dated 09/09/22). This report should be read alongside the above Preliminary Ecological Appraisal undertaken by Elite Ecology. Below is a scan of a section of the Executive Summary. All recommendations for enhancement will be incorporated into the proposed scheme and updated Drawings 03e & 07d reflect this.

- ✦ As part of the PEA survey undertaken by Elite Ecology, no bats or their signs were found. The building (B1) is considered to have **low** potential to support roosting bats, and a **low** risk of bats using the features present. During the activity survey two species: **Soprano pipistrelle** and **Common pipistrelle** were using the surrounding environment for foraging and commuting, but no bats were seen to leave or enter any part of the building. **There are therefore currently no bats using the building**, it receives no ecological protection under wildlife legislation and there are no ecological constraints to the proposed works.
 - ✦ **No evidence of bats, nesting birds, or signs of owl activity** were discovered. However, biodiversity enhancement measures are required to be submitted. Recommendations are as follows and all locations will be provided on the plans to be submitted (see appendix 5 for recommended locations and appendix 7 for examples):
 - ✦ **Recommendation 1 (Enhancement):** 1 x Beaumaris Woodstone (or similar) bat box to be affixed to the rear (east) elevation of the building. See [Putting up your box - Bat Boxes - Bat Conservation Trust \(bats.org.uk\)](https://www.bats.org.uk/putting-up-your-box-bat-boxes-bat-conservation-trust) for siting advice.
 - ✦ **Recommendation 2 (Enhancement):** 1 x Sparrow terrace to be affixed to the rear (east) elevation of the building. See [Where To Put A Bird Box | Nestboxes - The RSPB](https://www.rspb.org.uk/where-to-put-a-bird-box-nestboxes-the-rspb) for siting advice.
 - ✦ **Recommendation 3 (Broadscale Enhancement):** Wider ecological benefit could be maintained by ensuring (where possible) that all boundaries are planted with native species to retain connectivity to the surrounding habitat as well as retaining any mature trees on site. See [17 bats & hedges leaflet.pdf \(hedgeline.org.uk\)](https://www.hedgeline.org.uk/17-bats-hedges-leaflet.pdf).
- See document - 12 - AVH711 - A3 - Site Enhancements for further details on site enhancement.**

11.0 REPTILE SURVEY AND MITIGATION REPORT (I&G ECOLOGY CONSULTING, SEPTEMBER 2022, APPENDIX J)

11.1 This report was commissioned following a consultation response by the Biodiversity Unit (dated 09/09/22). On the next page is a scan of a section of the recommended enhancements and conclusion section. All recommendations for enhancement will be incorporated into the proposed scheme and updated Drawings **03g** & 07d reflect this.

7. Enhancement

7.1 Post-construction enhancement measures for the site will include:

- ☐ Creation of reptile and amphibian refugia and hibernacula – log, rock and turf pile (See Appendix 2).
- ☐ A buffer zone around the site of unmanaged grassland and suitable amphibian and reptile refugia and hibernacula.
- ☐ Suitable "open" type fencing such as chain-link or close-board but with gap underneath which will allow free-movement of reptiles and other animals between retained habitat and existing adjacent habitat and the wider environs.

8. Conclusion

8.1 The mitigation at the site has been designed following best practice measures but will need to be finalised and agreed with LPA Ecologist. The findings of the survey points to a **Low Population Size Class** (less than 5). The mitigation on site will be suitable for higher numbers than this. During the initial preparation and subsequent development of the site, any reptiles/amphibians found will be relocated to the designated reptile refugia area. Suitable fencing will ensure that retained habitat remains connected to adjacent land and there will be no fragmentation effects upon any displaced reptiles.

A dedicated reptile / amphibian refuge is to be created as part of the development and site enhancement and to mitigate for the loss of shelter afforded at present by some of the scrub and grassland.

12.0 SUPPORTIVE LETTER FROM TRAVELLING AHEAD (APPENDIX L)

12.1 Appendix L contains a letter from Travelling Ahead dated 21/12/22 which sets out an updated opinion on their opinion and Senedd recent reports in regard to current issues in the delivery of traveller sites in Wales. This letter and Senedd reports are certainly material considerations and the LPA need to give this serious thought in regard to its inclusion.



13.0 CONCLUSION

13.1 The applicant's lifestyle and family traditions fall within the statutory definition of Gypsies as defined in Welsh Assembly Government Circular 005/2018 'Planning for Gypsy, Traveller and Show People sites and Section 108 of the Wales Housing Act. The family are currently living in an unsatisfactory bricks and mortar property which is against their cultural traditions and have a strong family history and connections within the south Wales, Swansea and Carmarthenshire area. The site was purchased to enable them to continue their Gypsy lifestyle, to move to a safe and secure environment site to enable them to continue receiving welfare and medical attention and to be close to family members.

13.2 The Gypsy and Traveller Accommodation Assessment (GTAA), published in 2016, identified no need (an oversupply of 3 pitches) in the short term (2016 – 2021) with 4 pitches required on public residential sites towards the end of the LDP period (2022 – 2026). This need takes into account the supply resulting from the 11 pitches that received planning permission in February 2015 and the two pitches on the Briton Ferry site that were brought back into use. The study concluded the need for pitches would be assessed through the Annual Monitoring Report. There is no indication of where the further public pitches will be located, when planning permission will be applied for or whether funding will be available for the delivery of the additional pitches over the plan period.

13.3 It has been demonstrated that any unmet need for additional pitches will, over the next few years, only be satisfied by the provision of private sites brought forward by the gypsy community. The current proposal is for the applicant to establish the site as his home as he and his wife cannot be accommodated on any other private authorised site within the County. The current policy is insufficiently flexible to cater for any unexpected demand for new pitches arising from the indigenous Gypsy community. Furthermore, the selection process for suitability to obtain a pitch on the Cae Garw site appears to be discriminatory and rather dubious. Significant weight should be given to the lack of alternative sites within the county.

13.4 To address the unmet need the Council states that applications for Gypsy and Traveller sites will be considered having regard to the outstanding need in accordance with the most recent government guidance. Policy GT 2 is a criteria-based policy against which such applications will be assessed through the development management process. There will be a preference for accommodation needs to be met on allocated sites, which there are none, existing gypsy and traveller sites or on appropriate extensions to those sites or sites within existing settlements. However, Circular 005/2018 advises that sites in the countryside can be treated as exception sites subject to satisfying the criteria in Policy GT 2 and identifying a need that cannot be met elsewhere. There is a preference for such sites to be within a reasonable distance of local services and facilities though more remote sites may be acceptable. Although the term '*reasonable*' is not defined the site is sustainably located close to the village centre of Pontrhydyfen where there is a limited range of facilities to cater for everyday needs. The application site is on public transport route with a bus stop 150m to the north giving access to Cwmavon, Neath and beyond.

13.5 The criteria in Policy GT 2 are met in that the development proposed is low level and small in scale, utilising a previously developed parcel of land and existing authorised building without causing harm to the surrounding landscape or any nearby properties. It has an excellent and safe means of access with on-site parking and turning facilities. The site can unobtrusively accommodate the development providing a spacious and safe layout with services available. The scheme details low level development similar to that on the adjoining complex to the north and there are no flooding or mining issues.

13.6 Article 8 of the European Convention on Human Rights as enshrined in Section 8 and 14 of the Human Rights Act 1998 gives paramount respect and importance to protect private and family life, as well as the public sector duties under the Equality Act 2010. These must be afforded an importance or weight as great as any other material consideration prior to

examination of the circumstances of the case. The lack of alternative sites within the current plan period, the personal circumstances of the family, contained in **Appendix A**, and the rights to a peaceful and safe family life have significant weight to overcome the perceived harm the development would have on this well screened rural site which amount to 'very special circumstances' within the planning balance.

13.7 **Appendix A** demonstrates the applicant has carried out a sequential test of other possible sites in the south West Wales area and has been unsuccessful in securing an appropriate pitch. **Appendix L from Travelling Ahead gives further thoughts on this and new evidence from the Senedd in its paper dated August 2022.** The development of this site would be a considerable benefit in an area where it has clearly proved difficult to find suitable alternative locations for traveller development. The site is in the applicant's ownership and is readily available for immediate use. Circular 005/2018 and 016/2014 advise that, when there is a proven need for new Gypsy accommodation, where there are no readily available sites identified and it is unlikely that the aspirations of the Authority to make such sites available within the foreseeable future warrants a permanent planning permission provided the criteria in LDP Policy GT 2 are met. Temporary permissions create considerable uncertainty for applicants resulting in a reluctance to invest in developing a site.

13.8 Following this planning application being invalidated by the LPA and the request for further information, relevant assessments / reports were commissioned and are now contained in appendices E, F, G & H and drawings 11 & 12. Professional assessment and opinion within these appendices are supportive of the proposals, and where relevant mitigation measures and checks suggested. Planning conditions could be implemented on any aspects considered relevant.

13.9 Following review of consultation responses received through the planning application process further information was provided in Appendix I, J, K and L and updated drawings **03g, 06b and 09a.**

13.10 In particular, issues identified by NRW have been addressed with a connection to the main sewer, relocation and covering of the muck heap and offering ecological enhancements.

The above demonstrates that very special circumstances exist that outweigh any perceived harm to the surrounding rural landscape or risk from flooding.

Should you require any further information please do not hesitate to contact Hayston Developments and Planning Ltd.

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RTPI

mediation of space · making of place

Appendices