



Appeal Decision

by C MacFarlane BSc(Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 20/11/2023

Appeal reference: APP/M6825/A/21/3276330

Site address: Land at Penybryn Farm, Llangynnor, Nantycaws, Carmarthen SA32 8EX

- 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 WC Price (Senior) against the decision of Carmarthenshire County Council.
 - The application Ref PL/00228, dated 11 August 2020, was refused by notice dated 5 March 2021.
 - The development proposed is creation of a family traveller pitch (for three generations) to include three static caravans and tourers, ancillary day/utility rooms, new stable block, retention and extension of hardcore area, retention of storage containers and installation of a package treatment plant.
 - A hearing was held on 22 August 2023.
 - A site visit was made on 30 August 2023.
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Decision

1. The appeal is allowed and planning permission is granted for creation of a family traveller pitch (for three generations) to include three static caravans and tourers, ancillary day/utility rooms, new stable block, retention and extension of hardcore area and installation of a package treatment plant at Land at Penybryn Farm, Llangynnor, Nantycaws, Carmarthen SA32 8EX, in accordance with the terms of the application, Ref PL/00228, dated 11 August 2020, subject to the conditions set out in the schedule to this decision.

Procedural and Preliminary Matters

2. The appellant confirmed at the hearing to the removal of the element of the proposal relating to 'retention of storage containers'. This reflects the submitted Site Plan and the basis on which the Council determined the application. I have considered the appeal on the same basis and used the amended description in my decision above.
3. The Council issued an Enforcement Notice in approximately 2006 requiring the removal of caravans, hardstanding and other structures, and the restoration of the site, entrance and adjoining hedgebank to their original condition. The requirements of the Notice, with the exception of the compliance period, were upheld through a subsequent appeal, however, these have not been fully complied with prior to the submission of the appeal

before me. I have therefore determined this appeal on the basis of the site's authorised agricultural use.

4. I observed during my site visit that a vehicular access is in place, with a static caravan, a touring caravan, storage containers, an outbuilding, fencing and an area of hardstanding on part of the site. The position and type of structures on site do not appear to reflect the submitted Site Plan that is the basis for my determination of this appeal.
5. The Council does not dispute the Gypsy status of the appellant and other family members, who are the intended occupiers of the proposal. Based on the written information provided, and statements made at the hearing, relating to current and previous lifestyle and occupation, I am satisfied that the intended occupiers meet the definition of 'Gypsies and Travellers' set out within the Housing (Wales) Act 2014 and Welsh Government Circular 005/2018 'Planning for Gypsy, Traveller and Showpeople Sites' (the Circular). Representations by interested parties querying the identity of the occupiers do not alter this conclusion.
6. Concerns have been raised by interested parties at the application and appeal stages regarding the lack of publication on the Council's website of Appendix A to the appellant's submission due to data protection issues. This document contains information relating to the appellant and their family's current and previous residences, relationships, employment and health conditions, which were also addressed at the hearing. Given the factual and personal nature of the information, I do not consider these are matters that could be substantively addressed by the interested parties. I am therefore satisfied that no prejudice has occurred to the position of the interested parties in this case.
7. Amendments to Welsh Government Planning Policy Wales Edition 11 (PPW) were published in October 2023, during the determination of this appeal. I have taken these into account but in this case they do not raise any new matters that would have any significant bearing on the decision.

Main Issues

8. The main issues are:
 - (i) Whether the site would be sustainably located;
 - (ii) The effect of the proposal on the character and appearance of the area;
 - (iii) The effect of the proposal on highway safety; and
 - (iv) Whether any identified harm would be outweighed by the material considerations in favour of the development, with particular regard to the supply of alternative accommodation and the personal circumstances of the appellant and family.

Reasons

Sustainable location

9. The appeal site is a plot of land located in open countryside as designated by the Carmarthenshire Local Development Plan 2014 (LDP). The LDP restricts development in open countryside, with Policy SP1 directing development to sustainable locations in accordance with the settlement framework, and promoting safe and convenient sustainable access particularly through walking and cycling. Policy H7 permits proposals for Gypsy and Traveller caravan sites where the location is reasonably accessible to a range of facilities and services, and is within close proximity of main transport routes.
10. I note there are limited facilities in nearby smaller settlements, however, it was agreed at the hearing that the closest settlement providing all main services would be Carmarthen.

The nearest bus stop in Nantycaws would be a considerable distance from the site, requiring pedestrians to use rural roads and traverse the A48 dual carriageway, which does not benefit from a pedestrian crossing. Such a route would not represent a safe and realistic option for future occupiers, meaning there would be a reliance on private vehicles to meet their daily needs.

11. I acknowledge that Policy H7 allows for proposals in open countryside, although this is qualified by the requirement to have reasonable access to facilities. The Circular sets out a sequential approach, with sites away from settlements capable of being considered where there is a lack of sustainable locations within or adjacent to settlement boundaries. This is reinforced by reference to the inappropriateness of an overly-rigid application of policies seeking to reduce car borne travel. The guidance in the Circular, which was published after the adoption of the LDP, therefore does not prevent sites in the countryside and provides flexibility when assessing the location of proposals.
12. Given its distance from Carmarthen and the lack of any practical options for travel other than by private vehicles, I do not consider the proposal could be described as having reasonable access to facilities and services. Whilst the appellant's way of life may inherently rely upon the use of private vehicles for work and tending to horses, I see no reason why this should warrant a lesser degree of access to essential services and facilities. In reaching this view I have taken into account the Welsh Parliament's Local Government and Housing Committee report 'Provision of sites for Gypsy, Roma and Travellers' (2022) (the LGHC report) submitted by the appellant, which highlights the historic unsuitability of site provision in Wales with regard to, amongst other things, inadequate access to schools, shops and facilities.
13. Other similar developments in countryside locations have been highlighted by the appellant. Whilst the general acceptability of Gypsy and Traveller sites in rural areas is not disputed, I do not have sufficient information to determine whether these examples are directly comparable with the appeal proposal in terms of distance and access to services and facilities, and the relevant policy framework. I have also taken account of the 2007 appeal decision relating to the site and concur with the overall view of the Inspector in that case, with regard to the sustainability credentials of the location.
14. To summarise, the proposal would not be sustainably located and would conflict with LDP Policies SP1 and H7. However, the more permissive approach provided by the Circular is a material consideration that weighs in favour of the proposal.

Character and appearance

15. The appeal site is demarcated by hedgerows and trees along much of its boundary, and is set within a largely flat landscape consisting of a patchwork of fields similarly bounded by vegetation. A small number of agricultural buildings are sited immediately to the north of the site. The land on the opposite side of the adjoining road appears to be in use as a forestry enterprise, with an area of hardstanding, timber stacks, and structures of utilitarian appearance. Further to the north lies a loose cluster of dwellings and agricultural buildings, with the pattern of development in the wider area consisting generally of scattered individual properties. Whilst the site and its surroundings are not subject to any particular landscape designation, the overall effect is one of a pleasing, verdant rural character.
16. Policy GP1 requires development proposals to conform with, and enhance, the character and appearance of the site, building or area. Policy H7, criterion d) states that proposals for Gypsy and Traveller sites will be allowed provided there is no adverse effect on the landscape. Due to the scale of the proposal, with its varied buildings, caravans, extensive hardstanding, parked cars and domestic paraphernalia, it would clearly

fundamentally alter the character and appearance of the site. However, in allowing new site proposals in open countryside, both Policy H7 and the Circular must therefore include an acceptance that some alteration with regard to character and appearance is inevitable in these instances.

17. Although the structures proposed would, individually, be limited in height and scale, the entirety of the development would be incongruous when viewed in the context of the nearby buildings of recessive appearance, with their simple utilitarian forms and muted colours. The bulk of the proposal would also be clearly visible when passing the site entrance, and be of greater visibility at certain times of year when the boundary vegetation is not in leaf. However, due to the surrounding topography, longer range views of the site would be more limited and the proposal would be seen in the context of the cluster of built form around the site.
18. I therefore consider that whilst the proposal would have a harmful effect on the character and appearance of the site and surrounding area, and fail to accord with LDP Policies GP1 and H7, this would be mitigated to some degree by the existing extensive screening, and proposed new planting, and relatively localised visual impact. In drawing this conclusion, I have taken account of the recognition implicit within the Circular that proposals will result in alteration to the character of rural sites.

Highway safety

19. The appeal site is accessed directly from the adjoining unclassified road, which is single-vehicle width and without formal passing places towards its junction with the C2071 highway to the north. At the time of my visit, I observed very few vehicular movements, which aligns with the view of both parties.
20. Although I have found that the proposal would be unlikely to generate many pedestrian movements, which accords with statements made at the hearing on behalf of the appellant, the reliance of future occupiers on private transport means the proposal would result in additional vehicle movements on the highway network. The Council's estimated best- and worst-case scenario figures are not specific to the proposal, being based on residential development data from the TRICS database and comparisons with another Traveller site proposal of a different scale. However, no figures have been provided by the appellant and comments that the Council's figures are unrealistic are largely unsubstantiated by evidence.
21. Whilst some shared journeys may occur as a result of family members living together on the same site, there is no indication to what extent this would reduce anticipated vehicle movements. Although it is argued that the proposal would generate little movement beyond those arising from the appellant visiting the site daily to tend to horses, it was acknowledged at the hearing that such activities have not occurred in recent years. Even if such daily visits were to take place, the number of vehicle movements associated with tending to animals would be significantly less than those arising from the residential use of the site for three households, along with the usual comings and goings of visitors, deliveries, tradespeople etc. Therefore, even in the absence of specific data, it is clear that there would be a significant increase in the number of vehicle movements as a result of the proposal.
22. Although lightly trafficked, I note the road serves farms and other properties, who could reasonably be expected to utilise large vehicles and exercise horses in the area. The proposal also includes the siting of 3 touring caravans, which have the potential to be moved to and from the site an unspecified number of times throughout the year. I heard at the hearing that the movement of touring caravans would occur once per year at most, and the appellant indicated a willingness to accept a condition reducing the number of

touring caravans to one, should I consider this necessary. However, such an amendment would be a material alteration to the proposal and I do not consider this to be an appropriate approach. In any event, the number of journeys made using the touring caravans could not realistically be restricted, irrespective of the current intentions of the intended occupiers.

23. Whilst other routes can be used to access the site, the most likely would be via the junction with the C2071, being the most direct access to the A48, which is a key transport route in the area and provides access into Carmarthen. I acknowledge there are access points to some properties along this stretch of the road, and these may be sufficient to allow vehicles to pass. However, such use can only be informal and cannot be relied upon as being available due to being in private ownership. Vehicles using the road would therefore be required to reverse some distance and carry out awkward manoeuvres in order to pass each other, with the attendant risk of conflict being exacerbated by the use of the road by large vehicles, touring caravans and horse riders. I note the Council's concerns regarding verge damage. However, no indication has been given as to whether any measures to prevent vehicles driving onto the verges have been considered and found inadequate.
24. I therefore conclude that the proposal would undermine highway safety and would fail to comply with LDP Policies SP1, GP1 and TR3, which require developments to provide safe and convenient sustainable access; to have regard for the safe, effective and efficient use of the transportation network; and permit proposals which do not generate unacceptable levels of traffic and are not detrimental to highway safety. However, given the existing lightly trafficked nature of the road, and provision of adequate visibility splays for those entering and exiting the site, as well as the relatively short distance from the site access to the junction with the C2071, I consider the harm would not be significant.

Material considerations in favour of the development

25. Turning to the matter of the need for Gypsy and Traveller accommodation, the LGHC report highlights very limited progress by local authorities in developing new culturally appropriate sites for Gypsy, Roma and Travelling communities across Wales, and includes a series of recommendations to Welsh Government to address the identified shortcomings. Whilst the report provides useful background information and context for matters relating to site provision, its findings and commentary are general rather than specific to this appeal or county.
26. The Council confirmed at the hearing that its most recent Gypsy and Traveller Accommodation Needs Assessment (2019) (GTANA) has not been ratified by Welsh Government, and an updated GTANA is anticipated next year. I acknowledge the appellant's concerns regarding the methodology used and the potential for undercounting of the actual need. However, this follows the standard methodology set out in Welsh Government guidance, which applies to all Local Planning Authorities in Wales.
27. The GTANA identifies a shortfall of 23 pitches by 2024. The Council has confirmed that since the production of the GTANA in 2019, planning permission has been granted for 18 pitches, which results in a shortage of 5 pitches. A further 10 pitches on a single site are subject to a resolution to grant permission and cannot yet be taken into account due to technical issues. The Council acknowledged at the hearing that there is a shortage of pitches, and this is borne out by the number of private sites granted planning permission in recent years.
28. Two sites for Gypsy and Traveller accommodation are also included as allocations in the emerging LDP, which has been subject to public consultation at Deposit stage, with adoption anticipated around late 2024. Whilst delivery of these sites may be a priority of

the Council, work to progress them is unlikely to commence until their inclusion in the LDP has been confirmed and the plan adopted. As such, and given the need for preparatory investigations, planning permission and funding, as well as construction, there is significant uncertainty as to when these sites will be available for occupation within the timescales of need referred to within the GTANA. Given the findings of the GTANA, and the potentially lengthy timeframe until the LDP site allocations can be delivered, I consider there is an immediate need for the provision of Gypsy and Traveller accommodation.

29. With regard to alternative sites, the existing Council-owned site is currently fully occupied, and no mechanism is yet in place to establish a waiting list and allocations policy for pitches, with pitches being assigned on a first-come, first-served basis. The evidence presented indicates that there is demand for pitches on this site from members of the existing households and families, and that plot turnover is generally low. As such, any vacancies are expected to be in short supply and filled by existing residents. Even if pitches were to become available, the appellant has attested to the strong aversion of all the intended occupiers of the appeal site to living on the Council-owned site, due to previous conflict experienced with the existing residents following changes in site management and culture, resulting in safety concerns for the appellant and their family and their eventual departure from the site. I have no reason to doubt the veracity of such statements and the Council has acknowledged the existence of problems at the site historically. Along with the limited prospect of pitches becoming available in the near future, I do not consider this to be a suitable and realistic alternative.
30. The information provided relating to pitches granted planning permission since 2019 indicates that the majority are small, private sites intended for individual and extended families. The site subject to a resolution to grant permission is also intended to be occupied by an extended family group. Therefore, it is unlikely that these sites would realistically be available to the appellant and their family. I note the difficulties raised regarding identifying other potential sites for purchase and little evidence has been provided to indicate that the appellant has carried out a search for sites. However, it is well established through case law that there is no requirement for site proponents to prove non-availability of other sites. The Council has also not provided any further evidence of alternative sites. The lack of suitable alternatives, as well as the immediate need for Gypsy and Traveller accommodation in the county, are matters that weigh substantially in favour of the proposal.
31. It is apparent that the relocation of the appellant and family from the Council-owned site to bricks and mortar accommodation some years ago has had a negative and ongoing impact on the health and well-being of several of the intended occupiers. There are also significant caring responsibilities within the extended family in relation to health conditions. I also note the references to over-crowding in Mr Price Jnr's home, and that his son and partner are presently living on the appeal site and expecting a baby in the near future. There would clearly be benefits for the intended occupiers in living together in a single location, through the provision of care and support within the extended family unit, as well as a return to their traditional lifestyle, which would contribute to improved well-being.

Other Matters

32. References have been made to unauthorised developments on the site in recent years, however, such matters are outside the remit of this appeal, which relates to an application for planning permission. Concerns regarding the potential for retrospective applications to occur in the future are not a reason to refuse planning permission where the proposal is considered acceptable. The particular circumstances relating to this

proposal are unlikely to be replicated elsewhere, therefore I give little weight to concerns regarding precedent. The number of caravans on site can be controlled through the use of a planning condition, as can a restriction on the use of the site for commercial activities.

33. Comments have been made regarding a lack of utilities on the site, and potential impacts on water supply in the surrounding area. I am satisfied such matters can be addressed through conditions relating to water supply, drainage and broadband provision, and have no evidence to indicate that an electricity supply could not be made available to the site.
34. There is also little evidence to demonstrate that the proposal would have an adverse effect on nearby equine and tourism businesses. Given the limited harm I have found in respect of highways safety and visual impacts, I afford little weight to this matter.
35. The site has been erroneously referred to by several interested parties as being located within Green Belt. The restrictive policies relating to development in Green Belt therefore do not apply, however it is located within open countryside and I have addressed this matter in my reasoning above.
36. Examples of proposals in the area which have been refused planning permission, or been viewed unfavourably by the Council, have been highlighted. However, from the limited information before me, these fundamentally differ from the appeal scheme in their use, meaning the policy framework and other considerations involved are not directly comparable with this case.
37. Based on the submitted plans and my site visit, I consider that the appeal site is of a sufficient size to accommodate the proposal, which mainly consists of living accommodation and stables. Land for grazing horses does not form part of the proposal, and the adequacy of adjoining or nearby land does therefore not fall within my considerations.
38. There is little before me to indicate that the site is of particular ecological value and that planning permission should be withheld on this basis. Biodiversity enhancement measures can be secured through the use of a condition. There is also little to substantiate concerns regarding an increase in dogs worrying sheep as a result of the proposal. Such concerns can be addressed by other measures outside of the planning system.

Planning Balance and Conditions

39. I have found that the appeal site would not be sustainably located when judged against the LDP, although it would be broadly compliant with the guidance within the Circular in this respect. I also consider that the proposal would result in harm in respect of character and appearance, as well as highway safety. However, for the reasons set out above, the harmful effects in respect of these two issues would be limited. I have also found that there is a need for Gypsy and Traveller accommodation in the county, as well as a lack of suitable alternative accommodation, and both are matters to which I afford substantial weight. When balancing these, I consider that the need for accommodation and lack of alternatives are compelling factors that outweigh the individual and cumulative harms identified.
40. I acknowledge the decision of the Inspector in the 2007 appeal, in dismissing a proposal for Gypsy and Traveller accommodation on the site. However, the national and local policy context, as well as evidence regarding need and availability of accommodation, has since altered considerably. As such, the present context and considerations to be taken into account are not comparable with the previous appeal and therefore do not direct me to dismiss this appeal on that basis.

41. For the reasons set out above, I find that the appeal should be allowed subject to the conditions set out in the schedule below. Given my findings that the need for accommodation and lack of alternative sites are sufficient to outweigh the harms I have identified, it has not been necessary to give weight to the personal circumstances put forward by the appellant. Accordingly, restricting the occupancy of the site to the appellant and their family would be unnecessary.
42. I have considered the conditions suggested by the Council and discussed at the hearing, having regard to the advice in Welsh Government Circular 16/2014 'The Use of Planning Conditions for Development Management'.
43. I have imposed the suggested condition requiring details of foul drainage as, although the appellant has provided treatment plant details, I am not persuaded this is sufficient to address the suitability of the proposed plant. Nor have I been provided with information to demonstrate this could be adequately controlled by other consenting regimes. Accordingly, I have not included the submitted treatment plant details in the list of approved plans in condition no. 2.
44. I have also imposed a condition requiring the provision of gigabit broadband infrastructure, as discussed at the hearing, in accordance with the requirements of Future Wales Policy 13.

Overall Conclusion

45. Based on the foregoing, and taking into account all matters raised, the appeal is allowed.
46. In reaching this decision, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act.

Claire MacFarlane

INSPECTOR

SCHEDULE OF CONDITIONS

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

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

- 2) The development shall be carried out in accordance with the following plans:

- Block and location plan (02a)
- Stable block elevations (06)
- Stable block floor plans (05)
- Utility room/day room – floor plans and elevations (04)
- Site plan (03c)
- Location plan (01a)
- Bollard lighting – data sheet
- Tam-lite lighting data sheet.

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

- 3) The occupation of the site shall only be by Gypsies and Travellers as defined in paragraph 2 of Welsh Government Circular 005/2018 'Planning for Gypsy, Traveller and Showpeople Sites'.

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

- 4) No commercial or business activities shall take place on the land, including the storage of materials, nor shall any vehicle over 3.5 tonnes be stationed, parked or stored on the site.

Reason: In the interest of visual amenity and to safeguard the amenity of adjacent occupiers and land users (LDP Policies H7, GP1 and SP1).

- 5) No more than six caravans, defined in the Caravan Sites and Control of Development Act 1960 and the Caravans Sites Act 1968, comprising of three static caravans and three touring caravans shall be stationed on the site at any time.

Reason: In the interests of visual amenity (LDP Policies H7, GP1 and SP1).

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

Reason: To safeguard and enhance biodiversity (LDP Policy EQ4).

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

Reason: To ensure the development is drained in an acceptable manner (LDP Policies GP1 and EP2).

- 8) No development or site clearance shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The

scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

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 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity and ecology (LDP Policies GP1, EQ4 and EQ5).

- 9) Any access gates shall be set back a minimum distance of 5.0 metres from the highway boundary and shall open inwards into the site only.

Reason: In the interests of highway safety (LDP Policies GP1 and TR3).

- 10) Prior to the occupation of the development hereby permitted, a visibility splay of 2.4 metres x 59 metres shall be formed and thereafter retained in perpetuity, either side of the centre line of the access in relation to the nearer edge of carriageway. In particular, there shall at no time be any obstruction above 0.9 metres within this splay area.

Reason: In the interests of highway safety (LDP Policies GP1 and TR3).

- 11) No development shall commence until a scheme to provide a water supply of a suitable volume and quality to serve the development hereby permitted has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of public health and in order to ensure that an adequate private water supply is provided (LDP Policy H7).

- 12) The parking spaces and layout shown on the plans herewith approved shall be provided prior to any use of the development herewith approved. Thereafter, they shall be retained, unobstructed, for the purpose of parking only. In particular, no part of the parking or turning facilities is to be obstructed by non-motorised vehicles.

Reason: In the interests of highway safety (LDP Policies GP1 and TR3).

- 13) The access shall be hard surfaced in a bonded material for a minimum distance of 5.0 metres behind the highway boundary, prior to any part of the development approved herewith being brought into use and thereafter maintained in perpetuity.

Reason: In the interests of highway safety (LDP Policies GP1 and TR3).

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

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