

BACKGROUND

This planning application has been submitted following the refusal of planning application P2022/0966 for 'Creation of one gypsy pitch with one residential static unit, touring caravan, a utility/day room and boundary fencing (partly retrospective)'. The planning application was refused on 27.04.2023 for the following reason:

1 The proposed development is unacceptable in principle given its status as highly vulnerable development within Flood Zones 2 and 3 (Seas and Rivers) for the purposes of the Flood Map for Planning. The proposal is therefore contrary to Planning Policy Wales (Edition 11, 2021), Technical Advice Note (TAN) 15: Development and Flood Risk and Policy BE1 of the Neath Port Talbot Local Development Plan.

The proposed development would form an unacceptable form of development due to the development comprising a highly vulnerable development within Flood Zones 2 and 3, contrary to Planning Policy Wales (Edition 11, 2021), Technical Advice Note (TAN) 15: Development and Flood Risk and Policy BE1 of the Neath Port Talbot Local Development Plan.

An appeal, ref A2023/0022 / CAS-02844-V2X8H8, was submitted, and dismissed on 05.06.2024, for the reason, in short that the Inspector concluded that the risk to human life by way of a possible flood event outweighed other material considerations, in particular the general need and supply of Gypsy and Traveller sites in the area. The full details of which are set out in their respective Officer Report and Planning Inspectorate Report.

Subsequently an Enforcement Notice, ref E2022/0093 was served on 19.03.2025 for the 'Unauthorised change of use of the land for residential purposes by way of the creation of one gypsy pitch with one residential static unit, touring caravan, a utility/day room, dog kennel, garden shed and boundary fencing', requiring the cessation of the use and the removal of all associated caravans, structures etc from the land. An appeal against the Enforcement Notice was submitted has also been dismissed (November 2025).

This application constitutes a revised scheme which attempts to overcome barriers to safety and human life in relation to a potential flood by way of an emergency escape route, in order to overcome the reason for refusal of planning application P2022/0966 above.

SITE AND CONTEXT

The application site comprises an irregular rectangular plot contained within a larger irregular triangular shaped parcel of land located off Church Street, Briton Ferry. The site is located just within the settlement boundary and bounded by highway to the north, west and south and the railway line to the east. The site benefits from an established access. The site is currently occupied by the applicants for unauthorised residential purposes in the form of a Gypsy & Traveller pitch. The application site measures 0.074ha, with a total of the applicant's ownership extending to 0.2381ha

together with an additional area of 62m² for the proposed escape route, situated at the south easterly end of Church Street. The site was purchased by the applicants in 2022.

Church Street itself, is of mixed use in nature with terraced housing and industrial/commercial uses including an electrical wholesalers and vehicle repair shop. A scrap metal facility lies to the south, as well as the Council's Household Waste Centre.

DESCRIPTION OF DEVELOPMENT

This retrospective planning application seeks full planning permission 'Revised application for the creation of one gypsy pitch with one residential static unit, touring caravan, a utility/day room together with a temporary day room, dog kennel and garden shed, boundary fencing, raising of ground levels and construction of means of escape route (partly retrospective) (REVISED SITE PLAN AND ADDITIONAL SUPPORTING INFORMATION)'.

In total, this revised proposal comprises one static caravan, one touring caravan, utility day room, existing temporary day room, dog kennel and garden shed, boundary fencing, raising of ground levels and a means of escape route.

Hardstanding with gravel has been laid with 2 no parking spaces, and a 1.8m fence boundary treatment and gated access is in situ. The proposed element of the application includes a brick and mortar utility/ day room which constitutes a single storey building of a traditional character with pitched roof and front porch with gable projection. The day room will use render with slate roof, render and grey uPVC windows and guttering. The building will comprise a home office, day room with kitchen and bathroom. Foul sewage is connected to the mains sewer, and soakaways are incorporated into site.

The site will use the existing access point off Church Street. The existing temporary day room is proposed to be removed should the application be approved.

The emergency escape route to be used in the event of a flood is located to the south-eastern corner of the site and extends to Church Street. The land on which the emergency escape route is located is within the ownership of Neath Port Talbot Council.

All plans / documents submitted in respect of this application can be viewed on the [Councils Online Register \(npt.gov.uk\)](https://npt.gov.uk/councils-online-register) or by searching ref: P2023/0563 on the Public Access portal.

NEGOTIATIONS

A Drainage Statement was submitted throughout the course of the application as the development meets the threshold for SAB consent.

Submission of Air Quality Assessment and Noise Report were submitted following a request from Environmental Health.

PLANNING HISTORY

The application site has the following relevant planning history: -

- P2021/0144 Construction of 9 Lock Up Garages with new vehicular access – approved
- P2022/0966 Creation of one gypsy pitch with one residential static unit, touring caravan, a utility/day room and boundary fencing (partly retrospective) – Refused & Appeal Dismissed

CONSULTATIONS

Head of Engineering & Transport (Highways): No objection, subject to Conditions

Head of Engineering & Transport (Drainage): No comment

Pollution Control (Noise): No objection

Pollution Control (Air): No objection

Welsh Water: Objection

Contaminated Land: No objection subject to conditions

Coal Authority: No objection

Network Rail: No objection, subject to conditions

South West Trunk Road Agency: No objection

Biodiversity Unit: No objection, subject to Conditions

Natural Resources Wales: Objection

Lead Local Flood Agency: No objection

Estates: Comments provided

REPRESENTATIONS

A site notice was also displayed on 30.07.2025.

In response, to date no representations have been received.

A letter of support has been submitted by 'Travelling Ahead: Gypsy, Roma and Traveller Advice & Advocacy Service' on behalf of the applicant, which in briefly, highlights the lack of provision of Gypsy & Traveller sites, and the need of the family for a home.

REPORT

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

National Planning Policy:

[Future Wales: The National Plan 2040](#) is the national development framework, setting the direction for development in Wales to 2040. The development plan sets out a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate resilience, developing strong ecosystems and improving the health and wellbeing of our communities.

The following policies are of particular relevance to the assessment of this application:

Policy 2 – Shaping Urban Growth and Regeneration – Strategic Placemaking

Policy 8 – Flooding

[Planning Policy Wales \(Edition 12, February 2024\)](#)

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty. A well-functioning planning system is fundamental for sustainable development and achieving sustainable places.

PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities. It encourages a wider, sustainable and problem solving outlook which focuses on integrating and addressing multiple issues rather than on an approach which is fragmented, un-coordinated and deals with issues in isolation. It provides an opportunity to remove any actual or perceived problems in current approaches and stimulate and support innovative and creative ideas as well as high standards of evidence and assessment to underpin the preparation of development plans and strategies and individual proposals. Monitoring and learning from development

outcomes so as to drive sustainable improvements in planning practice is also important.

The following is of particular relevance in the assessment of this planning application:

PPW Edition 12 states in para 4.2.36 that Local authorities are required to assess the accommodation needs of Gypsy and Traveller families and to allocate sites to meet the identified need. Where a Gypsy and Traveller Accommodation Assessment (GTAA) identifies an unmet need, a planning authority should allocate sufficient sites in their development plan to ensure that the identified pitch requirements for residential and/or transit use can be met. Planning authorities will need to demonstrate that sites are suitable for development and deliverable in the identified timescales. In drawing up policies planning authorities should consult providers of social housing, representatives of Gypsies and Travellers communities and landowners in areas likely to be appropriate for site provision. The consultation should be undertaken in a manner that is consistent with the planning authority's Community Involvement Scheme."

Para 6.6.22 of PPW states "The climate emergency is likely to increase the risk of flooding as a result of sea-level rises, increased storminess and more intense rainfall. Flooding as a hazard involves the consideration of the potential consequences of flooding, as well as the likelihood of an event occurring. Planning authorities should adopt a precautionary approach of positive avoidance of development in areas of flooding from the sea or from rivers".

Para 6.6.27 states "Planning authorities should be aware of the risk of surface water flooding, usually caused by heavy rainfall, and ensure developments are designed and planned to minimise potential impacts. Development should not cause additional run-off, which can be achieved by controlling surface water as near to the source as possible by the use of SuDS. Care should be taken in places of shallow groundwater or where flooding is caused by combined surface and groundwater processes. In such situations direct infiltration SuDs may not be appropriate. Consultation with drainage bodies and NRW should be undertaken and relevant evidence and information drawn from Area Statements taken into account.

PPW 12 is supported by a series of more detailed [Technical Advice Notes](#) (TANs), of which the following are of relevance: -

- TAN 15 Flooding
- TAN 11 Noise
- TAN 12 Design
- TAN 18 Transport

Other Guidance

Circular 005/2018 Planning for Gypsy, Traveller and Showpeople Sites (June 2018) provides updated guidance on the planning aspects of finding sustainable sites for

Gypsies and Travellers and how local authorities and Gypsies and Travellers can work together to achieve this aim.

Local Planning Policies

The Local Development Plan for the area comprises the [Neath Port Talbot Local Development Plan](#) which was adopted in January 2016, and within which the following policies are of relevance:

Strategic Policies :

- [Policy SP1](#) [Climate Change](#)
- [Policy SP2](#) [Health](#)
- [Policy SP3](#) [Sustainable communities](#)
- [Policy SP9](#) [Gypsies and Travellers](#)

Topic Based Policies:

- [Policy SC1](#) [Settlement limits](#)
- [Policy GT2](#) [Proposals for New Gypsy and Traveller Sites](#)
- [Policy EN7](#) [Important Natural Features](#)
- [Policy EN8](#) [Pollution and Land Stability](#)
- [Policy TR2](#) [Design and Access of New Development](#)
- [Policy BE1](#) [Design](#)

Supplementary Planning Guidance:

The following SPG is of relevance to this application: -

- [Parking Standards](#) (October 2016)
- [Pollution](#) (October 2016)
- [Design](#) (July 2017)
- [Biodiversity and Geodiversity](#) (May 2018)

Issues

Having regard to the above, the main issues to consider in this application relate to the principle of development, together with the impact on the visual amenity of the area, the residential amenities of the residential occupiers with particular regard to noise and air pollution, flooding and highway safety and parking.

Principle of Development

The site is located within settlement limits as defined by Policy SC1 of the LDP. SC1 requires development to be proportionate in scale and form to the role and function of the settlement to be acceptable in principle, subject to compliance of other relevant policy. The site is located within settlement limits and the site is small in scale, and just one pitch is proposed. The proposal is therefore considered proportionate in scale and form to the role and function of the settlement and would be compliant with SC1.

The location of the development is therefore acceptable in principle, subject to the development complying with the criteria of the other development plan policies.

It is not disputed with the submitted Planning Statement that the applicant's and their family fall within the definition of Gypsies as provided by para 2 of the 'Planning for Gypsy, Traveller and Showpeoples Sites' Welsh Government Circular (005/2018), in that 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.*

Therefore Policy GT2 Proposal for New Gypsy and Traveller Sites must also be considered.

Policy GT2 provides the following criteria for new gypsy and traveller sites to be permitted:

*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."*

Criterion 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.*

As the site proposed is located within the settlement boundary and not outside of a settlement, the requirements of this criterion and a sequential text are not applicable.

It is therefore considered that the proposal complies with Criterion 1.

With regards to Criterion 1a, whilst it is acknowledged that the application site is within identified settlement, it is also noted that the applicants were in ownership of a tenancy of a site at the authorised Gypsy Site at Wharf Road, Briton Ferry at the time they moved onto this unauthorised site. It is also noted that the applicants did not contact the Local Planning Authority prior to purchasing the site and chose to move off their existing site, while still retaining their tenancy, which they have since relinquished.

The applicants have strong family connections in South Wales and have state they had their tenancy at the Giant's Wharf site since 2015, Council records state since 2014. The applicants chose to move off the site due to social issues. The applicants have paid Council Tax on the site from 27.02.2023 and Council Tax payments on the Briton Ferry site have ceased.

Criterion 2 *The site is in a sustainable location within reasonable distance of community facilities (including education) and transport links including walking and cycling routes;*

The site is in close proximity to Briton Ferry District Centre which offers a range of shops and facilities including education. Whilst it is considered that gypsy and traveller families are more likely to use private modes of transport, the site is within close proximity to bus and rail routes. Alongside Church Street there is a pavement from the site leading towards the centre of the settlement and nearby schools.

It is therefore concluded that the site has good access to sustainable modes of transport and a wide range of community facilities, including education. The development therefore complies with Criterion 2.

Criterion 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;*

The site benefits from water and power supply, and foul water connection. Acceptable Storage and waste disposal methods are proposed as part of the planning application. Children's play opportunities are available nearby a Jersey Park, Brynhyfryd Recreational Ground, and Parc Newydd.

Drainage is discussed below, however it is considered that the development complies with Criterion 3.

Criterion 4 The site will not be detrimental to residential amenity or the environment.
The site uses a brownfield site which has little to no valuable biodiversity habitats. The site is physically separated from other residential developments within the settlement of Briton Ferry. Biodiversity enhancement measures are discussed below. The site is small in nature and would be occupied by a single family, it is therefore not considered that the nature and character of the site would be detrimental to the residential amenity of the adjacent residential occupiers.

Furthermore the site is an island bounded by highway to three side and a railway to the remaining boundary, therefore it is not possible for the site to be expanded to allow for further families or extended family to reside on site without resulting in over intensification of the site.

The development therefore complies with Criterion 4.

Issues with regards to Pollution and Contaminated Land, and potential impacts on the current/ future occupiers of the site are discussed below.

Criterion 5 The site can accommodate home-based business uses where required without detrimentally affecting the amenity and character of the area.

The applicant's employment does not require him to work from home and as such there is no need to accommodate a home based business. However the site has not been developed to its maximum capacity and therefore should there be a change of circumstance, advise should be sought from the planning department in relation to any proposed business they may wish to operate from the site, as to whether planning permission would be required and/or acceptable.

It is therefore considered that the proposal complies with Criterion 5.

Criterion 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.

The site offers sufficient space for an appropriate layout to accommodate one static caravan, touring caravan, day/ utility block and 2 parking spaces along with shed and dog kennels.

The provision equates to 1 pitch, however, should there be an arising need for additional pitches in the future, it is unlikely that they could be accommodated within the site. In considering site sustainability, paragraph 37 of the Planning for Gypsy, Traveller and Showpeople Site Circular 005/2018 (June 218), refers to opportunities for growth within family units. Whilst the current proposal is considered acceptable in terms of scale, there are concerns that the site would not be able to accommodate any future growth of the family unit or any arising future additional pitch needs. Notwithstanding any potential need for future expansion due to family growth, the proposal as is, is considered to comply with Criterion 6.

It is therefore considered that the proposal complies with Policies SC1 and GT2 of the LDP.

Matters relating to highway safety and parking are discussed below.

Other Policy Considerations

It is referred to in the submitted Planning Statement that Section 101 of the Housing (Wales) Act 2014 places 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 by way of a Gypsy and Traveller Accommodation Assessment (GTAA). It is considered that given the applicants benefitted from a tenancy at an authorised Gypsy site when they moved onto the site and have voluntarily relinquished the tenancy, that the Local Authority has fulfilled their duty in this instance and the applicants do not represent an 'unmet need' for the purposes of the GTAA.

Estates

In order to overcome the reason for refusal on the previous planning application P2022/0622, and the relevant appeal reason for dismissal, this revised scheme incorporates a proposed 'Escape Route', which would utilise land within the ownership of Neath Port Talbot Council. The Council's Estates Dept has therefore been consulted. The following provides a summary:

- The applicants have signed Certificate B on the planning application form, and have submitted a letter to the Estates Dept notifying of the submission of a planning application on their land.
- There is no availability on authorised Council sites and there are waiting lists, notwithstanding the applicants were in possession of a pitch at the Briton Ferry Wharf Site before choosing to move onto the application site. They relinquished their lease during the previous planning application (ref P2022/0966) process.
- The Council has had no correspondence from the applicants regarding purchasing or leasing the land of the proposed emergency escape route
- The Council would not be willing to sell the land, it is a case of whether the Council would be willing to grant them a right of access
- The applicants do not have the right to occupy any of the land including the land used for the informal play area

Impact on Visual Amenity

The site is located amongst a variety of uses, residential, commercial, infrastructure and industrial, with various building types. It is considered that there is no strong character to the immediate vicinity. The site benefits from a 1.8m high wood fence with gated access which is considered to be appropriate in terms of style and materials and whilst does not necessarily enhance the character or visual amenity of the area is nonetheless considered to be acceptable and appropriate.

The boundary treatment largely screens the caravans and day room from view, with limited views of the roofs visible from public vantage points, which is not considered to have a detrimental impact on the visual amenities of the immediate streetscene and wider public vantage points.

The development is therefore considered compliant with regards to visual amenity with Policy BE1 Design of the Neath Port Talbot Local Development Plan.

Impact on Residential Amenity

Given the site proposes a residential use, which will not contain a business use where other impacts may arise, the residential use of the site is considered a compatible use with the adjacent residential dwellings. The nearby commercial and industrial uses are not considered to be of a nature that is incompatible with the residential use, indeed there are other existing residential properties adjacent to the site and other residential developments have been granted the benefit of planning permission in the recent past. Additionally, given the low lying height of the structures on site and the separation distance to the nearest residential properties on the opposite side of the highway at a distance of approximately 22m, there are not considered to be any impacts with regards to overshadowing, overbearing or overlooking impacts to the detriment of the residential amenities of the neighbouring residential occupiers. It is also considered that the additional traffic generated by a single family would not be sufficient to result an unacceptable level of noise and disturbance to the nearby residential occupiers.

The proposal is therefore considered compliant with regards to residential amenity with Policy BE1 Design of the Neath Port Talbot Local Development Plan.

Parking and Access Requirements and Impact on Highway Safety

Policy BE1 requires that new development has no significant adverse impact on highway safety with Policy TR2 emphasising that development proposals will only be permitted where all criteria are satisfied including that “(1) The development does not compromise the safe, effective and efficient use of the highway network and does not

have an adverse impact on highway safety or create unacceptable levels of traffic generation”.

The proposals includes two vehicle parking areas and would use the existing site access.

The Head of Engineering and Transport (Highways) has assessed the proposal in terms of the use of the existing access, parking provision and the internal layout with regards to vehicular turning space and has no objection subject to Condition's as follows:

1. The site should be set out in accordance with drawing 02b (Site Plan).
2. Pedestrian vision splays of 2.4 metres by 2.4 metres (measured back from back of carriageway) shall be provided and maintained each side of the access within which nothing over 600mm in height shall be erected or allowed to grow. It is noted that the site access is existing with a vehicular crossover already in place.
3. The two vehicle parking areas shown on 'Site Plan, Drawing no – 02b' need to have minimum dimensions of 4.8m x 2.6m.
4. A satisfactory vehicular turning space shall be provided within the property's curtilage, so that all vehicles can enter and leave the property in a forward gear.

The development is therefore considered to be acceptable with regards to Policies TR2 Design and Access of New Development and BE1 Design of the Neath Port Talbot Local Development Plan.

South Wales Trunk Road Agency provided no objection however with regards to noise provided the following Note:

Prior to commencement of the development, the applicant must acknowledge that the development site is within an area highlighted in the strategic noise maps of Wales, for details see web page: <http://extrium.co.uk/walesnoiseviewer.html>. Due to the site's proximity to the trunk road, it is the applicant's responsibility to provide any noise mitigation deemed necessary, on their land and at their expense.

Network Rail have responded to the consultation advising they have no objection subject to conditions. These conditions are in light of the fact that the site is situated next to Network Rail land and infrastructure, therefore have requested the following:

'Whilst there are no principle objections, we would like to highlight Network Rail's right of access over the land as shown in brown below. The applicant will need to ensure

this access is not hindered or blocked by during, and after the development is complete.

We would expect the applicant to engage with Network Rail Asset Protection (assetprotectionwales@networkrail.co.uk) on the works.

Pollution Control (Noise & Air)

An Air Quality Assessment Report and Noise Impact Assessment was submitted with this application for consideration by the Council's Pollution Officer(s) to determine if the noise and air quality pollution levels were appropriate for the residential use of the site, given its location surrounded by roads and adjoining the main railway line. The Environmental Health Officer's response advises that the noise and air quality assessments show compliance with the relevant standards and are adequate in their assessment. The proposal is therefore considered to be acceptable with regards to Policy EN8 Pollution and Land Stability of the Neath Port Talbot Local Development Plan.

Biodiversity / Ecology

As identified above, Policies EN6 and EN7 of the Local Development Plan will be of relevance insofar as there is a need to ensure any impacts on biodiversity/ natural features are appropriately assessed and, where applicable, mitigated.

Planning Policy Wales (PPW) 12 sets out that;

The quality of the built environment should be enhanced by integrating green infrastructure into development through appropriate site selection and use of creative design. With careful planning and design, informed by an appropriate level of assessment, green infrastructure can embed the benefits of biodiversity and ecosystem services into new development and places, help to overcome the potential for conflicting objectives, and contribute to health and well-being outcomes.

A green infrastructure statement should be submitted with all planning applications. This will be proportionate to the scale and nature of the development proposed and will describe how green infrastructure has been incorporated into the proposal. In the case of minor development this will be a short description and should not be an onerous requirement for applicants. The green infrastructure statement will be an effective way of demonstrating positive multi-functional outcomes which are appropriate to the site in question and must be used for demonstrating how the step-wise approach (Paragraph 6.4.15 of PPW 12) has been applied.

The submitted Green Infrastructure Statement proposes a landscaping scheme of native apple and pear trees and bat and bird boxes to the utility/ day room elevations.

The Biodiversity consultee response advises that *'If the application is to be granted it is recommended that the following be conditioned into the permission':*

'Biodiversity enhancements will be provided as outlined in Appendix D – Green Infrastructure Statement of the Planning Statement and Justification Report and drawing 02a – Site Plan and drawing 04 Utility/Day Room.'

As the Biodiversity Enhancement measures are considered to be sufficient for the proposal, it is considered that the proposed development would comply with Policy EN7 of the Neath Port Talbot Local Development Plan.

Flood risk

Turning to flood risk, the development constitutes a Highly Vulnerable Development (HVD) (residential) for the purposes of TAN 15 (Fig 4 – *Development Vulnerability Categories*), which covers all residential premises including Gypsy & Traveller sites, caravan parks and camping sites.

HVD is defined in para 9.2 as 'Highly vulnerable development is development where the ability of occupants to decide on whether they wish to accept the risks to life and property associated with flooding, or be able to manage the consequences of such a risk, is limited'

The Flood Map for Planning Wales identifies the site, including the proposed emergency escape route to lie partially within Zone 2 (Rivers and Seas) and largely within Zone 3 (Rivers and Seas). Figure 1 of TAN 15 defines Zone 2 Rivers and Seas as 'Less than 1 in 200 (0.5%) but greater than 1 in 1000 (0.1%) chance of flooding in a given year, including climate change' and Zone 3 Rivers and Seas as A greater than 1 in 200 (0.5%) chance of flooding in a given year, including climate change'.

Para 9.7 of the TAN states that *'All small new developments, including single dwellings, should be considered under a single vulnerability category. For example, it is important that gardens, access paths and driveways of a residential dwelling should remain flood-free, therefore the whole area of development should be considered highly vulnerable'*.

The TAN also states in para 15.9 that *'Caravan, camping and other temporary occupancy sites give rise to special problems in relation to flooding. They have often been located on coastal or riverside sites which are susceptible to flooding. The instability of caravans places their occupants, and others, at special risk and it may be difficult to operate an effective flood warning system. Such development (including any changes of use, extensions to seasonal must not be permitted in Zone 3 (Rivers and Sea). They should only be considered in Zone 2 (Rivers and Sea) if the development satisfies requirements of the TAN'*.

Whilst the proposal is not to have a temporary occupancy nor is in a coastal or riverside site, what is important to note is that the TAN highlights the particular vulnerability of caravan occupants in Zones 2 and 3.

With regards to Zone 2, the TAN para 10.19 states *'Where proposals for redevelopment include residential use, local authorities should ensure that such uses*

do not occur at ground floor level, they will also need to be compatible with the tolerable conditions set out in section 11 and exhibit resilient flood design as described in section 13.'

By virtue of the proposal being a Highly Vulnerable Development namely a residential use, at ground floor level facilitated by the occupation of a caravan, in principle this development would be contrary to the advice contained within TAN 15 given its location within Flood Zones 2 and 3.

This application proposed a revised scheme to refused planning application P2022/0966, in that the scheme incorporates an emergency escape route from the rear of the site, through Council owned land to the Highway. However, the current flood maps show the escape route to also be within Flood Zone 3 (Rivers and Seas).

Additionally, the escape route is on Council owned land, and the applicants have no legal right to use the land, nor is there any easement in place to ensure the land remains clear for their use. It is therefore considered by the LPA that the proposed escape route does not override the previous reason for refusal of planning permission P2022/0966 and the associated appeals Inspector decision to dismiss the appeal.

TAN 15 para 3.5 states that flood risks should be considered in the undertaking of detailed Flood Consequence Assessments for planning applications.

Para 4.3 of the TAN reinforces that *'Detailed Flood Consequences Assessments, to accompany planning applications, will be required to consider a range of climate change scenarios, including upper end estimates, making reference to the Welsh Government guidance on climate change allowances for planning purposes'*.

Para 6.4 states: *The prime objective of a Flood Consequences Assessment is to develop a full appreciation of:*

- *The risk and consequences of flooding on the development; and*
- *The risk and consequences (i.e. the overall impacts) of the development on flood risk elsewhere.*

A Flood Consequence Assessment (FCA) was submitted to attempt to demonstrate that the consequence of flooding can be acceptably managed over the lifetime of the development. A Flood Response Plan is also submitted for consideration.

It is noted that the FCA incorrectly uses the Flood Risk Assessment Map rather than the Flood Map for Planning.

The FCA considers the development to be considered as having a lifetime of 50 years and refers to a 'proposed 50 year planning period' page 21) and therefore looks at the flood risk over the next 50 years and considers the development to be expected to remain flood free during this time period.

This appears to suggest that a condition is placed on any consent to limit the development to a 50 year life time however it is considered by the LPA that enforcing

a condition in 50 years time is not a reasonable prospect. Additionally it is not guaranteed that a flood event would not happen within that 50 years.

The FCA acknowledges if 'a design life of 100 years is proposed the development might be at risk of flooding, from a tidal source during a 1 in 1000 year event which the FCA states could result in the need for expensive repairs. The FCA and Flood Response Plan therefore propose measures to counteract this including dry proofing, wet proofing and preparation of a flood response plan and subscribing to the NRW flood warning scheme and designating a family member as a flood warden. It is not considered by the LPA that these are sufficient or enforceable measures. The FCA states that if the adjacent road is flooded, the family should reside to the static caravan, however the caravan is vulnerable to the potential high velocity of a flood events and TAN 15 clearly states that caravans should not be permitted in Flood Zones 3. The FCA also states that 'if it becomes necessary to leave the caravan that the escape route should be used, however the escape route is also located within Flood Zone 3.

Natural Resources Wales have been consulted and have responded stating inadequate information has been provided in support of the proposal and the following are extracts from the detailed response:

We have concerns with the application as submitted because inadequate information has been provided in support of the proposal. To overcome these concerns, you should seek further information from the applicant regarding flood risk. If this information is not provided, we would object to this planning application. Further details are provided below.

Our advice to you is that the FCA fails to demonstrate that the potential risks and consequences of flooding are manageable for the reasons explained below.

The cover page of the FCA which shows an extract of Flood Risk Assessment Wales (FRAW) Map risk from the sea is visually misleading as FRAW data has no formal standing in terms of the consideration of flood risk for planning applications. If the author wishes to provide a map showing the flood risk, then an extract from Flood Map for Planning (FMfP) risk from the sea should be used (as illustrated in Figure 1.1 on page 1), which clearly shows the site to be within Flood Zones 2 and 3 for the sea.

Section 10.21 of TAN15 clearly states allocations for redevelopment in zone 3 should be avoided and may only be made in exceptional circumstances where it is essential to the strategy of an LDP or where it addresses national security etc. Furthermore, section 10.19 of TAN15 states where proposals for redevelopment include residential use, local authorities should ensure that such uses do not occur at ground level.

Whilst we agree with the FCA that, given the distance of the site from the foreshore, direct wave action is not a required to be considered however, the FCA proposes to raise site levels to achieve frequency and depth flooding values to comply with TAN15. Given the distance of the site from the foreshore, it is appropriate to consider the site to effectively lie within a flood cell (as when considering fluvial flood risk) as such, any proposed raising of ground levels has the potential to increase flood risk

elsewhere. The FCA has not considered nor provided any evidence that this will not lead to increased flood risk elsewhere and therefore fails to satisfy Figure 2 of TAN15.

In summary the proposed development intends to create a highly vulnerable development (residential) into Flood Zones 2 and 3. The FCA has failed to demonstrate compliance with Figure 5 and 6 of TAN15 without proposing mitigation and the potential impact has not been assessed.

Whilst not within NRW's remit, we wish to highlight that the emergency access/egress route is also shown to be located within Flood Zone 2 and should be considered by your Authority.

Please note, if an amended FCA is not submitted or any subsequent amended FCA fails to demonstrate that the consequences of flooding can be acceptably managed over the lifetime of the development, then we are likely to object to the application.

To conclude it is clear from NRW response as well as the LPAs own observations that the proposal including the emergency escape route being located in Flood Zone 3 Rivers and Seas is contrary to TAN 15.

Following this initial NRW response, the applicant's hydrologist submitted a supporting letter, which can be summarised as:

- The site also lies partly within Flood Zone 1.
- The Flood Risk Assessment Wales Map (FRAW), which shows the current flood risk, along with the Flood Map for Planning (FMFP), which shows the flood risk with 100 years of climate change, together make up the Wales Flood Map (Section 4.1 TAN 15). The FRAW is a key component and provides a comprehensive picture of the nature and scale of the current risks.
- With the nomadic nature of the applicants, the life time of the development is likely to be shorter and the FCA should account for this, therefore the FRAW should be taken into account.
- The raising of the site to ensure the site remains flood free in a flood event would not result in flooding elsewhere given the small size of the flood cell.

A further NRW consultation response remained that inadequate information has been provided in support of the proposal and without such information, NRW object.

The response reiterates that the application proposes Highly Vulnerable Development and Flood Map for Planning identifies the site to be at risk of flooding and within Flood Zones 2 and 3 (sea).

NRW also reiterates that as there is no submitted evidence to verify the statement about potential impacts on flooding elsewhere, therefore NRW cannot alter their previous advice; *Our advice to you is that the FCA fails to demonstrate that the potential risks and consequences of flooding are manageable for the reasons explained below.* The previous above advice is repeated.

The proposal can therefore be considered contrary to paras 11.3 which states *Whether a development should proceed or not will depend upon whether the consequences of flooding can be safely managed, including its effects on flood risk elsewhere* and para 11.4 which requires *There are requirements that must be in place for any development that is permitted to be located in flood risk areas. In all circumstances, developers and planning authorities should ensure the following conditions are met: No increase in flooding elsewhere.*

In summary it is considered that the proposal is not acceptable for the following reasons:

- The escape route also lies within the flood zone, and the applicants have no legal right of access to the land
- The access and egress lies within the flood zone
- It has not been evidenced that the raising of the site levels would not result in flooding elsewhere
- Limiting the lifetime of the development to 50 years is not enforceable
- The caravan is a vulnerable structure within a flood event

To conclude it is considered that the siting of a Highly Vulnerable Development (residential/ caravan) within Flood Zones 2 and 3 fundamentally conflicts with Planning Policy Wales (Edition 12) and Technical Advice Notice 15 and that the proposed Flood Response Plan is not sufficient to alleviate the associated risks to human life.

Drainage

The Local Lead Flood Authority (LLFA) have been consulted because at the time of submission the site lay within the Small Watercourse and Surface Water Flood Zones, according to the Flood Map for Planning. The LLFA provides no objection to the proposal and states that for their purposes the Flood Consequence Assessment is acceptable, and that although there are highway flooding issues in the vicinity of the site, due to the scale/ nature of the development, it is unlikely to significantly exacerbate this issue. It is also noted to the applicant that Building Control will need to ensure a suitable soakaway is feasible in this location.

The proposal is therefore considered with regards to Small Watercourse and Surface Water Flood Zones to be compliant with TAN 15 and Policy BE1 of the LDP.

The submitted Drainage Statement details the proposed drainage solutions which includes water butts and soakaways to the proposed day room and static caravan,

The Council's Drainage Officer has provided no comment on the application.

The proposal is therefore considered to be compliant with Policy BE1 of the LDP with regards to drainage, which requires that a development's 'drainage systems are designed to limit surface water run-off and flood risk and prevent pollution'.

Contaminated Land

No objections have been made by the Council's Land Contamination Officer, however standard conditions have been requested due to the historical use of the site and surrounding area in order to comply with Policy EN8 Pollution and Land Stability of the Neath Port Talbot Local Development Plan.

Coal Authority

The Coal Authority consultation response advised that the site does not fall within the Development High Risk Area, therefore a Coal Mining Risk Assessment is not required.

However, in the interest of public safety, it is requested that the Coal Authority's Standing Advice note is drawn to the applicant's attention, where relevant.

Welsh Water

The Welsh Water consultation response provided an objection due to the location of the public watermain and WW right to access the apparatus at all times for maintenance will restrict the development to render it impractical. A revised Site Plan was therefore submitted however Welsh Water maintain their objection. This has been queried with Welsh Water as a similar objection on the previous planning application P2022/0966 was removed, however no response has been received to the informal reconsultation. Given the flooding issued discussed above, it has not been considered necessary to further investigate.

Other Matters

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.

Therefore it should be considered as to whether or not there are any other materials considerations or overriding issues in relation to the applicant's gypsy status that would outweigh the concern for the potential for flooding.

As part of the justification for the development, the applicants have stated that the social issues on the authorised Briton Ferry site deem the site unsuitable. Whilst social issues in some circumstances could justify relocation to an unauthorised site, this must be considered against flooding concerns. It is also acknowledged that

whilst the Council has fulfilled their obligation with meeting the identified need of Gypsy & Traveller pitches of the current Gypsy & Traveller Accommodation Assessment, there are currently no available pitches within the Authority.

Whilst Article 8 of the European Convention on Human Right highlights the importance to protect private and family life, and the Council does not dispute the importance or weight of this material consideration, it is not considered that the risk of flooding and the consequent risk to human life should be outweighed by this matter.

On balance it is considered that there are no overriding personal circumstances that outweigh the adverse flood risk and risk to human health. It is therefore considered that in the absence of any overriding circumstances, that National Planning Policy principles that residential development, *of all types*, should not be permitted within Flood Zones 2 and 3 would stand as a reason for refusal of planning permission.

This view has also been upheld in the Planning Inspectorate Decision to dismiss appeal ref CAS-02844-V2X8H8 regarding the above mentioned planning application P2022/0966 whereby the Inspector stated: *I do not consider that the absence of a suitable alternative site is sufficient to outweigh the risks associated with the provision of highly vulnerable development, such as that proposed, on a site subject to significant flood constraint*, and *'in the particular circumstances of this case I find the best interests of the children are not served by granting permission for a home on a site that has a high risk of flooding and which cannot be vacated during a flood event with the result that lives are put at risk. I find such considerations to be compelling. Consequently, I do not consider that the matters advanced in favour of the proposal amount to very exceptional circumstances or clearly outweigh the conflict with national planning policy.'*

The applicant's agent has raised that the LPA should consider a temporary consent for the family, however the family have already been on site for 3.5 years that sufficient time has already passed, increasing the likelihood of a flood event taking place. This is also supported by the Planning Inspectorate in the above mentioned appeal where the Inspector states to *'allow for the granting of a temporary or personal planning permission, I am mindful that in neither case would the resultant consent overcome the fundamental concern in this matter which is that the appeal site is located in an area subject to significant flood constraint and that living in this location would place at risk the lives of the appellants and their children'*.

CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises Future Wales - the National Plan 2040 and the Neath Port Talbot Local Development Plan (2011–2026) adopted January 2016.

Whilst the development is acceptable in principle, the site is located within Flood Zones 2 and 3 as identified by the Flood Map for Planning, and notwithstanding the emergency escape route proposed in the Flood Consequence Assessment, given the proposal constitutes a Highly Vulnerable Development for the purposes of TAN 15, forms an inappropriate form of development in this location, which is contrary to the principles set out in National Planning Policy. As such the proposal is contrary to Planning Policy Wales (Edition 12), Technical Advice Note 15 – Development, Flooding and Coastal Erosion and Policy BE1 Design of the Neath Port Talbot Local Development Plan.

It is further considered that the decision complies with Future Wales - the National Plan 2040, specifically Policy 8 Flooding and the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

Reasons For Refusal:-

1 The proposed development is unacceptable in principle given its status as highly vulnerable development within Flood Zones 2 and 3 (Seas and Rivers) for the purposes of the Flood Map for Planning. The proposal is therefore contrary to Planning Policy Wales (Edition 12, 202a), Technical Advice Note (TAN) 15: Development, Flooding & Coastal Erosion and Policy BE1 of the Neath Port Talbot Local Development Plan.

The proposed development would form an unacceptable form of development due to the development comprising a highly vulnerable development within Flood Zones 2 and 3, contrary to Planning Policy Wales (Edition 12, 2024), Technical Advice Note (TAN) 15: Development, Flooding & Coastal Erosion and Policy BE1 of the Neath Port Talbot Local Development Plan.