

**PLANNING & DEVELOPMENT COMMITTEE**

**23 November 2023**

**REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT**

**PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 23/0933/10 (GH)  
**APPLICANT:** Mr Price & Family  
**DEVELOPMENT:** Creation of three Traveller pitches to include one static caravan, touring caravan and day/utility room per pitch, hard standing area, perimeter timber fence and installation of a package treatment plant  
**LOCATION:** TWELVE OAKS STABLE, LLANHARRY ROAD, LLANHARRY, CF72 9LY  
**DATE REGISTERED:** 18/08/2023  
**ELECTORAL DIVISION:** Llanharry

---

**RECOMMENDATION:** REFUSE FOR THE FOLLOWING REASON:

**REASONS:** By virtue of its location within land designated as Green Wedge, the proposal would constitute inappropriate development and be harmful to its open nature.

The Local Planning Authority has balanced this harm against other material considerations that would weigh strongly in favour of the proposal, including the availability of alternative sites, the personal circumstances of the Applicant, and legislation pertaining to equality, human rights and the best interests of the child.

However, it is considered, on balance, that these material considerations do not represent the very exceptional circumstances which would be sufficient to justify harm to the Green Wedge.

---

**REASON APPLICATION REPORTED TO COMMITTEE**

The proposal is not covered by determination powers delegated to the Director of Prosperity & Development

**APPLICATION DETAILS**

Full planning permission, partly in retrospect, is sought for the creation of three Traveller pitches on land at Twelve Oaks Stable, Llanharry

The pitches would be arranged around the perimeter of the site, with each containing a single-storey day room, static caravan and touring caravan.

The day room proposed for plot 1 would be slightly larger than that for plots 2 and 3, with a gross floor area (GFA) of 74.32m<sup>2</sup>. It would have rendered elevations enclosed by a twin-pitch roof covered with slate-type tiles.

Conversely, the day rooms for plots 2 and 3 would be of an identical scale, with each having a GFA of 55.74m<sup>2</sup>. That for plot 2 would have rendered elevations and that for plot 3 would be finished with face brickwork.

Surface water would be collected from each permanent day room and be directed towards a soakaway. Foul water is proposed to be disposed of by a package treatment plant, details of which have been submitted with the application.

The site layout plan indicates that existing hedgerows along the northern boundary of the site would be retained i.e., towards the site entrance and Llanharry Road, whilst the western and southern boundaries would be subject to a planting scheme.

Further details are included for the installation of bird and bat boxes on site, together with dormouse nesting boxes. Sensitive downlighters would be installed to each day room.

In addition to the plans and elevation drawings accompanying the application, the following supporting documents have been submitted:

- External Lighting Details
- Preliminary Ecological Assessment
- Dormouse Survey
- Bat Transect Survey
- Planning Statement, including personal statement

## **SITE APPRAISAL**

The application property is a part of a field located within open countryside to the north of Llanharry. In addition to being outside of defined settlement limits it is within an area designated as Green Wedge. The land within the red line of the site location plan comprises a surface area of approximately 0.187 hectares.

Access to the site is via an existing field track which leads from a junction with Llanharry Road to the north. The track also provides access to an existing private Gypsy and Traveller site to the east, known as Broad Oaks Stables, and to other land to the south.

The application site has been laid with gravel and partly laid out. A close boarded timber fence has been erected around the perimeter of the site to a height of around 1.5m.

With the exception of the aforementioned neighbouring stables and a long established scrapyard a little further to the east, the site is surrounded by open countryside. The closest other residential properties are located at Bryn Celyn around 326m to the south.

## **PLANNING HISTORY**

There are no recent or relevant applications on record for this site.

## **PUBLICITY**

The application has been advertised by direct notification to three neighbouring properties and notices were displayed on site.

Furthermore, in accordance with the Development Management Procedure (Wales) Order 2012 the relevant press notice was published on 20th August 2020 identifying that the application represented a departure from the Local Development Plan.

Three letters of objection or representation have been received raising the following matters:

- The proposal is a greenfield site and is located within a Green Wedge, which is contrary to national planning policy.
- The applicant has failed to demonstrate that a site outside of the Green Wedge is not available to meet this need and so the application has not demonstrated very exceptional circumstances to be permitted within a Green Wedge.
- The proposal will result in the creation of traffic hazards which would be harmful to highway safety.
- There are already lots of vehicles back and forth.
- Dogs bark at all hours of the day.
- The site has been spoilt by the mess created on it.
- Other non-material planning issues.

## **CONSULTATION**

### Highways and Transportation

No highway objection is raised or condition suggested.

### Flood Risk Management

Since the total construction area of the development is over 100sqm, Schedule 3 of the Flood and Water Management Act 2010 would require the Applicant to submit an application to the Sustainable Drainage Systems (SuDS) Approval Body (SAB), in addition to compliance with Part H of the building regulations.

It is noted that the site does not fall within an area of surface water flood risk, however a condition would be recommended to secure details of surface water drainage management and evidence showing that a soakaway would be a viable option by providing calculations / test results using BRE360 or similar.

#### Public Health and Protection

Conditions are recommended in respect of hours of operation, noise, dust and waste. In addition, it is noted that a search of records, relating to potentially contaminating past land uses, has shown that the site is within 250m of a landfill site.

The Public Health and Protection Division therefore considers that there is a potential for adverse ground gas conditions to exist on site and an application to build a new residential property means that a site investigation is recommended to be undertaken as a condition of any planning consent.

#### Llanharry Community Council

The application would be detrimental to the local amenity and local environment and further similar development will follow causing friction in the local community. New Gypsy and Traveller site development in the open countryside, that is away from existing settlements or outside areas allocated in the development plan, should be strictly limited.

Inappropriate development is harmful to the Green Wedge and should not be approved; Gypsy and Traveller sites (temporary or permanent) in the Green Wedge are deemed inappropriate development.

#### Dwr Cymru Welsh Water

Non-mains sewerage is proposed; therefore, the Applicant should seek advice from Natural Resources Wales and/or Building Control.

It is noted that capacity is currently available in the water supply system to accommodate this development.

#### National Grid

A new connection or service alteration will require a separate application to the National Grid.

## Countryside Section – Ecologist

No objection, although a condition would be required to secure a net biodiversity benefit.

## The Coal Authority

The Coal Authority's general approach in cases where development is proposed within the Development High Risk Area is to recommend that the applicant obtains coal mining information for the application site and submits a Coal Mining Risk Assessment to support the planning application.

However, when considering this particular proposal; on the basis that the area where the built development would be falls outside the defined Development High Risk Area it is considered that a Coal Mining Risk Assessment would not be necessary for this proposal and therefore there is no objection to this planning application.

No other consultation responses have been received within the statutory period.

## **POLICY CONTEXT**

### **Rhondda Cynon Taf Local Development Plan**

Members will be aware that the current LDP's lifespan was 2011 to 2021 and that it is in the process of being reviewed. The Planning (Wales) Act 2015 introduced provisions specifying the period to which a plan has effect and providing that it shall cease to be the LDP at the end of the specified period. These provisions were commenced on 4th January 2016 but do not have retrospective effect. Therefore, the provisions do not apply to LDPs adopted prior to this date and plans adopted before 4th January 2016 will remain the LDP for determining planning applications until replaced by a further LDP. This was clarified in guidance published by the Minister on 24th September 2020. Subsequently, Members are advised that the existing Plan remains the development plan for consideration when determining this planning application.

The application site lies outside the settlement boundary for Llanharry.

**Policy CS2** - the policy emphasis in the Southern Strategy Area is on sustainable growth that protects the culture and identity of communities by focusing development within defined settlement boundaries. Emphasis will also be on protecting the cultural identity of the Southern Strategy Area by protecting the natural environment.

**Policy AW2** - stipulates that development proposals will only be permitted in sustainable locations, these include sites that: would not unacceptably conflict with surrounding uses; and are well related to existing water, waste, sewerage, electrical, gas and telecommunications infrastructure and improvements to such services will be provided where necessary.

**Policy AW4** - details the types of planning obligations that may be sought in order to make the proposal acceptable in land use planning terms and that Community Infrastructure Levy contributions might apply.

**Policy AW5** - concerns the amenity and accessibility criteria of new development proposals. The policy states that development proposals will only be supported where: the scale, form and design of the development would have no unacceptable effect on the character and appearance of the site and the surrounding area; the development would be compatible with other uses in the locality; the development would have safe access to the highway network and would not cause traffic congestion; and car parking would be provided in accordance with the Council's SPG on Delivering Design and Placemaking: Access, Circulation and Parking.

**Policy AW6** - relates to design and placemaking and outlines that proposals will be acceptable where: they are appropriate to the local context in terms of siting, appearance, scale, height, massing, elevational treatment, materials and detailing.

**Policy AW10** - stipulates that development proposals will not be permitted where they would cause or result in a risk of unacceptable harm to health and/or local amenity due to issues such as water, noise or light pollutions or other issues including land instability or contamination, unless it can be demonstrated that measures can be taken to overcome any significant adverse risk.

**Policy AW15** - proposals for the use of land for the stationing of caravans occupied by Gypsies, Travellers and Travelling Show People will be permitted where it can be demonstrated that the proposed development:

1. Cannot be accommodated on the site allocated by Policy SSA26.
2. Is reasonably related to local services.
3. Where possible, is located on previously developed land.
4. Includes sufficient space for parking and manoeuvring of all vehicles associated with the occupiers of the site curtilage.
5. Is provided with adequate on-site services for water supply; power; drainage; sewage disposal; and waste disposal facilities.
6. Does not adversely affect surface or ground water resources.

**Policy SSA13** - settlements in the Southern Strategy Area have absorbed a significant amount of new development during the last decade. In order to protect the identity of these settlements, ensure the efficient use of land and protect the countryside from urbanisation and incremental loss; the policy stipulates that development will not be permitted outside the defined settlement boundary.

**Policy SSA22** - identifies locations designated as Green Wedge to prevent coalescence, protect vulnerable and undeveloped land, and urban form.

**Policy SSA23** - identifies that the site falls within a Special Landscape Area, where due to the landscape value of the site, development proposals are expected to demonstrate a higher standard of design and consideration of the wider site context.

**Policy SSA26** - land is allocated at Beddau Caravan Park for the provision of Gypsy and Traveller accommodation for the whole of the County Borough

Supplementary Planning Guidance

- Design and Placemaking
- Access, Circulation and Parking Requirements

### **National Guidance**

In the determination of planning applications regard should also be given to the requirements of national planning policy which are not duplicated in the Local Development Plan, particularly where national planning policy provides a more up to date and comprehensive policy on certain topics.

Planning Policy Wales Edition 11 (PPW) was issued on 24th February 2021 in conjunction with Future Wales: The National Plan 2040 (FW2040). PPW incorporates the objectives of the Well-being of Future Generations (Wales) Act into town and country planning and sets out Welsh Government's (WG) policy on planning issues relevant to the determination of all planning applications. FW2040 sets out the National Development Framework for Wales (NDF), WG's current position on planning policy at regional and national level.

For the reasons set out within the report it is considered that the proposed development is not sufficiently consistent with the key principles and requirements for placemaking set out in PPW or the Well-being of Future Generations (Wales) Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable development and building healthier communities and better environments.

Other national policy guidance considered:

- PPW Technical Advice Note 12: Design
- PPW Technical Advice Note 18: Transport
- Manual for Streets
- Welsh Government Circular 005/2018 Planning for Gypsy, Traveller and Showpeople Sites (June 2018)
- Designing Gypsy and Traveller Sites Guidance, Welsh Government (May 2015)
- Enabling Gypsies, Roma and Travellers Plan, Welsh Government (June 2018)

### **REASONS FOR REACHING THE RECOMMENDATION**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

## **Main Issues and Policy Considerations:**

The proposal seeks consent for three Gypsy and Traveller pitches, each with static and touring caravans, and day rooms on a parcel of undesignated land. This land is outside the defined settlement boundary, part of a Special Landscape Area (SLA) designation and within an area of Green Wedge.

### *Status of the Applicant*

Information accompanying the application clearly identifies that the Applicant and his family meet the definition of Gypsies as set out within Section 108 of the Housing Wales Act 2014 and Welsh Government Circular 005/2018: 'Planning for Gypsy, Traveller and Showpeople Sites'.

### *Green Wedge*

LDP Policy SSA22 determines that the application site lies within a Green Wedge and PPW11 is clear that there is a general presumption against inappropriate development within Green Wedges.

Furthermore, Welsh Government Circular 005/2018 states that new Gypsy and Traveller sites in the Green Belt or Green Wedges are likely to be inappropriate development and alternatives should be explored before green wedge locations are considered.

National planning policy on Green Belts or Green Wedges applies equally to applications for planning permission for Gypsy and Traveller sites and other residential uses. Paragraph 3.75 of PPW11 notes that:

*The construction of new buildings in a Green Belt or Green Wedge is inappropriate development unless it is for the following purposes:*

- *justified rural enterprise needs;*
- *essential facilities for outdoor sport and outdoor recreation, cemeteries, and other uses of land which maintain the openness of the Green Belt or green wedge and which do not conflict with the purpose of including land within it;*
- *limited extension, alteration or replacement of existing dwellings; or*
- *small scale diversification within farm complexes where this is run as part of the farm businesses.*

The development proposal does not fall into any of the above categories and since the site is entirely within the Green Wedge it cannot be argued that the open nature of the land would be protected. Consequently, there is no support for the proposed development in relevant policies of PPW or the development plan.



Although the dayroom, static and touring caravans would be of single storey height and therefore a low-rise type of development, the permanent structures, together with the access and parking requirements laid out within the large shingle yard and the comings and goings to what was previously a green open site, mark a significant change to the character of the site. This would harm the openness of the Green Wedge, contrary to Policy SSA22.

In response to specific concerns about the Green Wedge location which were raised with the Applicant's Agent during consideration of the application, the Agent provided three examples of appeals which were allowed for Gypsy and Traveller developments in neighbouring local authority areas. However, none of these examples appeared to relate to land designated as Green Wedge or Green Belt and thus are not considered to add weight to the Applicant's case.

Lastly, it is worth highlighting that Members may recall or be aware of a recent planning permission for three Gypsy and Traveller pitches at the neighbouring site known as Broad Oaks, which is also within the Green Wedge and for which Members supported a recommended for approval, ref: 20/0682/10.

However, the context of that application was somewhat different in that at least one third of that site was 'brownfield' and comprised an existing approved yard, site access and a large stable block owned by that Applicant. The northern boundary of that site also remains adjacent to that of a long-established scrapyards, so the considerations and decisions in respect of openness and erosion of the Green Wedge were taken in a different context.

### *Special Landscape Area*

Special Landscape Areas (SLA) were designated to protect areas of what are considered to be fine landscape quality within the County Borough. Unlike Green Wedge, the SLA designation does not preclude development, providing that proposals conform to the highest design standards possible and protect its visual qualities.

Indeed, Circular 005/2018 recognises that Gypsy and Traveller caravan sites can be located in the countryside, which means that there would be a likely change to the character and appearance of such areas.

At Twelve Oaks, the location of the development is within a topographically depressed area and set against the slopes of higher ground to the north and south. The visual impact of the proposal on the character of the immediate area around it would be considered to be acceptable since even in its rural location, there is a large hedge between the highway and the site and the additional hedge planting proposed would add further mitigation.

### *Housing Act and Gypsy and Traveller Accommodation Assessment*

The Housing (Wales) Act, 2014 places a legal duty on local authorities to properly assess the accommodation needs of Gypsies and Travellers and ensure that they are provided for.

The current RCTCBC Gypsy and Traveller Accommodation Assessment (GTAA) only covers the period 2015-2020 and therefore the assessment of 'need' is considered to be out-of-date. Whilst a replacement plan was prepared at least eighteen months ago, it is still awaiting approval from the Welsh Government.

With no up-to-date evidence at present its absence is considered to be a significant material consideration, even recognising that demand for sites can be very fluid and a new GTAA could effectively be out of date in a very short period. The Council's Housing Strategy Team has also advised that the planning application evidences an unmet need.

#### *Other Local and National Policy Considerations*

Circular 005/2018 – Planning for Gypsy, Traveller and Show People Sites (June 2018), supports Gypsies and Travellers finding and purchasing their own sites for development. It states that an increase in the number of approved private sites may also release pitches on local authority sites for Gypsies and Travellers that are most in need of public provision.

Approving planning permission for private Gypsy and Traveller Sites, in appropriate locations, also contributes to the Well-being of Future Generation (Wales) Act's goals of *A more equal Wales* and *A Wales of cohesive communities*, as well as contributing to the 'due regard' duty placed upon Local Authorities by The Equalities Act 2010.

LDP Policy AW15, which considers proposals for the use of land for the stationing of caravans occupied by Gypsies, Travellers and Showpeople sets out a number of qualifying criteria, the first of which is that new sites will be permitted where they cannot be accommodated by allocation SSA26 (Beddau Caravan Park). The allocated site is currently full.

In relation to the other criteria of Policy AW15, the proposal appears to be compliant since it is in reasonably close proximity to a number of local facilities within the settlement of Llanharry, including a Post Office, places of worship, and a primary and secondary school. Furthermore, the site can be provided with adequate on site services for water, power and waste disposal.

However, although the Applicant has described the site as previously developed land, it was not part of the former landfill site and in any event PPW excludes from the definition of previously developed 'brownfield' land that where the remains of any structure or activity have blended into the landscape over time, which is the case here.

Nevertheless, Paragraph 39 of the Circular 005/2018 states that 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. This means that the requirements of Policy AW2, which seek to direct development towards 'sustainable locations', are of less material relevance.

### *Summary*

National planning policy is generally very supportive of applications for Gypsy and Traveller sites, including those within open countryside where residential development would otherwise be resisted; however, the Circular clearly states that they are typically considered to be inappropriate development, when located within a Green Wedge.

Although the Council's allocated site at Beddau is full and there is an unmet need for the development, it is considered that the Applicant has not sufficiently evidenced the absence of options to provide a private site on land that is not within Green Wedge.

Therefore, subject to the additional material issues considered further below, it is considered that the highlighted local and national policy matters relating to the Green Wedge do not weigh in favour of the development.

### **Other Issues:**

#### Impact on neighbouring occupiers

Save for the Gypsy and Traveller pitches at the adjacent Broad Oaks Stables site, the location of the proposed development away from the main residential area of Llanharry means that there would be little or no concern with regard to the amenity of other residents, such as harm to privacy or outlook.

Although the public consultation raised concern about barking dogs and other non-material matters, the noise from animals kept as pets is not germane to the consideration of this application.

In light of the above, no objections are raised in this regard.

#### Access and highway safety

##### *Access Leading to the Site*

The only means of access to and from the site is along the unnamed country lane that serves Trecastell Farm from either Llanharry Road to the west or the unnamed road that serves Pontyclun to the east.

This route is sub-standard in terms of carriageway width to cater for safe two-way traffic flows, horizontal alignment and forward visibility which is lacking in structural integrity, drainage and street lighting.

The lack of segregated pedestrian footway facilities would discourage walking as a means of travel and the development would be heavily reliant on use of private motor vehicles, contrary to the aims of PPW11 and the Active Travel (Wales) Act 2013.

#### *Access from the Public Highway*

Access from the public highway would be via an existing junction off the adopted unnamed lane, which currently serves a stable block. The access measures in excess of 4.5m in wide and accommodates a sufficient turning area to ensure vehicles are able to enter and exit in a forward gear. This would be acceptable to serve the level of development proposed.

#### *Off-street parking provision*

The proposal is for 3 no. Traveller pitches. The submitted site layout plan indicates provision of 2 no. parking spaces per pitch; however, there is scope for significantly more off-street parking provision for than that shown on the plan. Consequently, the proposal gives no undue cause for concern regarding off-street parking provision.

#### *Summary*

The proposed development for a single family Traveller site would not have a significant impact in terms of traffic generation and further intensification of use to and from the site. There are concerns about the sub-standard nature of the highway network leading to the site that would be exacerbated by further intensification of use, but it is considered, on balance, and taking into account previous planning decisions on the adjacent site that the proposal would be acceptable.

#### Ecology

This application has resubmitted dormouse and bat survey work which was undertaken for a previous planning application at the adjacent site known as Broad Oaks Stables, ref. 20/0682/10.

Those survey reports did not record use of the adjacent areas by dormice, or any bat use such that the previous development would have been considered to have any unacceptable impact.

Initially, it appeared that the current proposed development would affect an agriculturally improved field, with an ancient hedgerow to be retained. However, the Council's Ecologist advised that since the hardcore had already been laid, the site would have no ecology value.

The Ecologist also noted that the Applicant proposed a new section of hedgerow which, if the development is granted planning permission, should be just of hazel, together with the provision of bird, bat, and dormouse boxes; all of which should be secured by condition. However, wildflower seeding as an additional mitigation measure would not be required.

**Further material considerations:**

Further to the matters above, the Local Planning Authority is obliged to consider whether there are any other material considerations that should apply in this case, that might outweigh the identified harm to the Green Wedge.

Welsh Government Circular 005/2018 explains that the Housing (Wales) Act (2014) places a legal duty upon local authorities to ensure the accommodation needs of Gypsies and Travellers are assessed and that the identified need for pitches is met. Although the Housing Act is not planning legislation, it is relevant to this application since the unavailability of pitches to cope with identified need becomes a material planning concern.

As referenced further above, pending approval of its replacement, the Council's Gypsy and Traveller Accommodation Assessment is now out of date. The previous Assessment determined that there would be a shortfall of four residential pitches in a five-year period, although demand could be lesser or greater at the time of enquiry. However, the application demonstrates an unmet need and the demand for a fixed site of three pitches is considered justified.

Notwithstanding that unmet need, it is noted that the Applicant did not engage with the Planning Authority prior to commencing the unauthorised works and occupying the site, which is of concern.

Paragraph 63 of Circular 005/2018 states that "Pre-application discussions are particularly important to avoid misunderstanding and subsequent problems over planning permission. Constructive and positive engagement on all sides will promote trust and may help to avoid breaches of planning control. The aim should be as far as possible to help Gypsies and Travellers to provide for themselves, to allow them to secure the kind of sites they need, but in locations that are appropriate in planning policy terms".

The Planning Authority has no objection to the development of private sites and recognises that this helps to deal with both unmet need and the varying demand for sites that can occur within the period of a GTAA, however current or not that GTAA is.

However, had the Applicant or Agent sought prior advice from the Planning Authority the response would have included a recommendation to avoid any area that falls within the Green Wedge designation.

The Circular also advises that the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED), established by Section 149 of the Equality Act (2010) are germane. The former requires that decisions taken must respect private and family life and the home, and peaceful enjoyment of their possessions. The PSED is relevant because of the protected characteristics of the Applicant.

A further factor is that the requirements set out within of Article 3 of the United Nations Convention on the Rights of the Child (UNCRC) must be considered. The Article states that the best interests of children must be a primary consideration in making decisions that may affect them. All relevant adults should do what is best for children and when decisions are made, the impact on the child must be considered.

Article 3 applies in this case, and it is evident that if the application did not gain consent the outcome would undoubtedly be disruptive to family life and that of the younger family member. Although, as a national treaty, the UNCRC has not been incorporated directly into domestic law, it has been recognised at Parliamentary level that its principles often guide practice and are often referred to by the courts when interpreting human rights.

Aware of these additional material matters, the courts have held that the identified harm to the public interest, i.e., the harm to the Green Wedge, must be balanced against the rights and personal circumstances of the Applicant. Article 8 of the European Convention on Human Rights states that "Everyone has the right to respect for his private and family life, his home and his correspondence".

Article 8 also instructs that "There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

In this case the interference is considered to be justified, firstly because the development does not benefit from planning permission and secondly, since the land in question is subject to one of the strongest planning policy designations intended to prevent development other than for those circumstances which would be considered 'very exceptional'.

Of the three children who live at the site, two are over 18 years of age and the other over 16. The UNCRC defines a child as everyone under 18 "unless under the law applicable to the child, majority is attained earlier". In Wales Section 3 of the Social

Services and Well-being (Wales) Act 2014 states that a child is a person who is aged under 18.

The Applicant's Agent has confirmed that the youngest daughter is looking to start a college course. This is considered relevant because there would not be the same kind of disruption to family life than one where a child was attending and settled at a local school, and then, potentially, having to move as the result of a refusal of planning permission.

Likewise, if the Applicant's daughter was to enrol in a college the catchment area for further education provision tends to be fairly wider and therefore considerations about the location of the family home would not be considered to be so pertinent.

Although the Council has no record of the Applicant or his family presenting their need for a site to the Housing Strategy Team, in the instance of this planning application being refused, the Team would be engaged to support a search for suitable options. Members will also recognise the Applicant's right of appeal to the Welsh Ministers.

### *Summary*

Circular 005/2018 advises that national planning policy on Green Belts or Green Wedges applies equally to applications for planning permission for Gypsy and Traveller sites and other residential uses, and that New Gypsy and Traveller sites within them are likely to be inappropriate development.

The Circular does not identify what might constitute very exceptional circumstances although PPW 11 clarifies that this is a situation where other considerations clearly outweigh the harm which such development would do to the Green Belt or Green Wedge.

Whilst the preceding paragraphs describe other, specific legislation which must be taken into account when determining an application for a Gypsy and Traveller site, such as the Housing Act and Public Sector Equality Duty, these wider matters would be material to all such similar Gypsy and Traveller applications and therefore are not considered to be 'very exceptional' in that context.

The matter of whether planning permission should be granted, subject to a 'personal condition' limiting use of the development to that of the Applicant and nominated family members, and/or the practicality of a temporary consent, was considered. A personal condition was used at the adjacent Broad Oaks Stables Gypsy and Traveller site for the three pitches.

However, as highlighted further above, the circumstances of that previous application were different in that the land was already partly previously developed and occupied by a stable block. So, in addition to the element of brownfield land, the owner of that site could also demonstrate a locational need which had not been demonstrated in a

similar way for Twelve Oaks. The fact that the Applicant is noted within the supporting statement to be a distant cousin of the neighbouring site owner is considered to be a matter of very little weight.

Paragraph 59 of Circular 005/2018 advises that personal permissions are exceptions and would rarely outweigh more general planning considerations. The Circular goes on to add that “personal permissions are only relevant to situations where uses or operational development must cease and be removed once the occupiers move, or their material circumstances otherwise change”. The Circular states that it should be rare to grant temporary permissions.

Since the need of the Applicant is to establish a permanent site for him and his family and does not relate to a limited period of time or a specific need to be located at this part of Llanharry, this indicates that neither a temporary planning permission, nor one limited by a personal condition, would be appropriate.

Consequently, the recommendation to Members, on balance, is that the development would be inappropriate and harmful to the Green Wedge designation and should not be outweighed by the personal circumstances of the Applicant and his family; the lack of available alternative sites; or any of the other aforementioned material considerations.

### **Community Infrastructure Levy (CIL) Liability**

The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

The Council’s Solicitor has advised that although the touring caravan and static caravan are unlikely to amount to a building for the purposes of planning and CIL liability, this would not be the case for a permanent utility/day room, the three of which would have a combined internal floor space of just over 185.8m<sup>2</sup>.

Consequently, part of the development is of a kind that is liable for a charge under the CIL Regulations 2010 (as amended). The application lies within Zone 3 of Rhondda Cynon Taf’s Residential Charging Zones, where there is a liability of £85m<sup>2</sup> for residential development (including extensions to dwellings over 100m<sup>2</sup>).

The CIL (including indexation) for this development is therefore expected to be £24,449.41.

### **Conclusion**

National planning policy and guidance clearly acknowledges that locations outside of the settlement boundary may be justified for Gypsy and Traveller sites, and indeed may be preferable.



However, for the reasons set out in the preceding sections of the report, greater weight has been attributed to LDP Policy SSA 22 and the national policies which seek to safeguard areas of designated Green Wedge.

In the overall planning balance therefore, due to the harm to the Green Wedge, the application is recommended for refusal.

**RECOMMENDATION: REFUSE DUE TO THE FOLLOWING:**

1. By virtue of its location within land designated as Green Wedge, the proposal would constitute inappropriate development and be harmful to its open nature.

The Local Planning Authority has balanced this harm against other material considerations that would weigh strongly in favour of the proposal, including the availability of alternative sites, the personal circumstances of the Applicant, and legislation pertaining to equality, human rights and the best interests of the child.

However, it is considered, on balance, that these material considerations do not represent the very exceptional circumstances which would be sufficient to justify harm to the Green Wedge.