

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : 27 APRIL, 2023

REPORT OF THE HEAD OF SUSTAINABLE DEVELOPMENT

1. BUILDING REGULATION APPLICATIONS AND OTHER BUILDING CONTROL MATTERS DETERMINED BY THE HEAD OF SUSTAINABLE DEVELOPMENT UNDER DELEGATED POWERS

Decision Codes:

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| A | Accepted |
| AC | Approved Conditionally |
| AW | Accepted (Welsh Water) |
| R | Refused |

(a) Building Regulation Applications - Pass

For the information of Members, the following applications have been determined:

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| 2022/0264/BN | A | Ty Bugail, Monknash. CF71 7QQ | Proposed alterations and extension to existing property |
| 2023/0003/BN | A | 151, Redlands Road, Penarth, CF64 2QP | Loft extension with dormer |
| 2023/0005/PO | AC | 34, Leckwith Avenue, Cardiff. CF11 8HQ | Demolition of existing rear lean to store structure and erection of single storey rear extension, all with associated external works |
| 2023/0035/BN | A | 44, Coleridge Avenue, Penarth. CF64 2SP | Dormer loft conversion with hip to gable |
| 2023/0086/BN | A | 31, Station Road, Penarth. CF64 3EP | Alteration to ground floor. Extension to accommodate French doors and pitch to flat roof, chimney knock through and replacement of windows throughout |
| 2023/0108/BN | A | 218, Gladstone Road, Barry. CF62 8NG | Removal of existing internal structural wall and installation of new steel RSJ to support upper floors |

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| 2023/0121/BN | A W | 15, Stallcourt Avenue, Llantwit Major, CF61 1TE | Replacement of existing conservatory for a single storey extension at the rear of the property. Internal alterations to include: opening porch to house, new lintel between lounge and family room and creating an inner room to utility room. |
| 2023/0125/BN | A W | 22, The Heathers, Barry, CF62 7FL | Single storey rear extension |
| 2023/0133/BR | AC | 290, Barry Road, Barry, CF62 8HF | Rear single storey flat roof extension |
| 2023/0134/BN | A | 26, Clos Y Fulfran, Barry. CF62 5DG | First floor extension above garage with Juliet balcony and rear extension |
| 2023/0135/BR | AC | Llansannor and Llanharry Junior and Infant School, Llansannor, Cowbridge, CF71 7SZ | Construction of a single storey extension. Installation of a free-standing canopy, to provide an all-weather external learning space. |
| 2023/0137/BN | A | Bay Tree House, Llanbethery, CF62 3AN | Ground floor rear extension and first floor extension with Juliette balconies above existing ground floor |
| 2023/0139/BN | A | 157, Redlands Road, Penarth, CF64 2QP | Knock through and re-roof |
| 2023/0141/BN | A | 1, Maes Lloi, Aberthin, CF71 7HA | Move front door from the front of property to the side, brick up front and install window. Internal reconfiguration to create hall and bedroom. |
| 2023/0142/BN | A | Forge House, Church Street, Llysworney, CF71 7NQ | Knocking down two walls to make open plan kitchen / dining room, fitting all new windows inc fitting large set of sliders, re insulating roof, filling cavity with insulation, new staircase. Fitting new flat roof membrane to garage and utility room. |

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| 2023/0143/BN | A | 116, Cornerswell Road, Penarth. CF64 2WB | Re-roof |
| 2023/0144/BN | A | 67, Westbourne Road, Penarth. CF64 3HD | Re Roof |
| 2023/0145/BN | A | 10, Gibson Way, Penarth. CF64 1TA | Conversion of internal garage into kitchen diner. Installation of bifold doors. |
| 2023/0146/BR | AC | 1, West Terrace, Penarth. CF64 2TX | Rear and side kitchen extension and internal alteration to suit |
| 2023/0147/BN | A | Gelli Goll Farm, City, Cowbridge, CF71 7RW | Single storey log cabin for rural workers dwelling |
| 2023/0148/BN | A | Workshop, Penarth Motor Company, Cogan Hill, Cogan, Penarth, CF64 1JG | Re-roof |
| 2023/0149/BR | AC | 19, Gilbert Street, Barry. CF63 1EE | 2 number external doors, downstairs cloakroom |
| 2023/0150/BN | A W | 16, Tudor Place, Llantwit Major, CF61 1TL | Single storey extension, garage conversion and porch |
| 2023/0151/BN | A | Pen Y Waun, Bonvilston, CF5 6TS | Removal of current flat roof extension and rebuild to suitable standard and include a pitched roof and porch area |
| 2023/0152/BN | A | 48, Church Road, Barry, CF63 1JX | 3 new windows to front elevation |
| 2023/0153/BN | A | 46, St Joseph's Mews, Penarth, CF64 1NP | Single storey extension to ground floor to enlarge lounge / kitchen area |
| 2023/0154/BN | A W | Longford Park, Highlight Lane, Barry, CF62 8AA | Loft conversion, rear extension, double garage and garage conversion |
| 2023/0155/BN | A | 23, Duffryn Crescent, Peterston Super Ely, CF5 6NF | New window opening to front elevation. Block up rear external utility room door and replace with new window |

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| 2023/0156/BN | A | 2, Percy Smith Road, Boverton, Llantwit Major, CF61 1GW | To install a downstairs toilet in the understairs storage cupboard. |
| 2023/0157/BN | A | 42, Maes Y Gwenyn, Rhoose, CF62 3LA | Installation of RSJ for bi fold doors and pitch roof to flat on extension |
| 2023/0158/BN | A | 3, The Spinney, Aberthin, Cowbridge. CF71 7HW | Removal of kitchen window and widening opening. Installing a new lintel and bi fold doors |
| 2023/0159/BN | A | 2, Rheidol Drive, Cwm Talwg, Barry. CF62 7HB | Removal of interior wall to extend kitchen / diner |
| 2023/0161/BR | AC | 16, Park Road, Penarth. CF64 3BD | Construction of a rear single and two storey extensions, including internal and external house renovations. Conversion of outbuilding to gym and store. |
| 2023/0162/BN | A | 10, Beaufort Way, Fontygary, Rhoose, CF62 3BU | Detached garage conversion |
| 2023/0164/BN | A | 28, Beechwood Drive, Penarth, CF64 3QZ | We will be installing a USB between the kitchen and dining room, and removing a divisional, internal block wall. |
| 2023/0165/BN | A | 11, Min-Y-Mor, Barry. CF62 6QG | A first floor gable extension and dormer to the front elevation and a dormer to the rear, with internal reconfiguration |
| 2023/0166/BN | A | 17, Sunnycroft Lane, Dinas Powys. CF64 4QQ | Re roof |
| 2023/0167/BR | AC | 7, Church Meadow, Boverton, CF61 2AT | Proposed single storey and two storey extension to dwelling |
| 2023/0168/BN | A | 1, Clos Y Cadno, Penarth. CF64 2UF | Conversion of attached garage into habitable space |
| 2023/0171/BN | A W | 71, Port Road, East, Barry. CF62 9PY | Single storey extension to rear 10-40m2 |

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| 2023/0172/BR | AC | Holm View Phase 2, Skomer Road, Barry. | Residential development of no. 31 affordable housing units plus associated works |
| 2023/0176/BR | AC | 13, St. Cyres Road, Penarth. CF64 2WP | Single storey flat roof rear extension and loft conversion with side pitched roof dormer |
| 2023/0180/BN | A W | 24, Fferm Goch, Llangan. CF35 5DP | 2 new semi detached houses |
| 2023/0183/BN | A | Alps, Quarry Road, Wenvoe. CF5 6AA | Telephone line cabling |
| 2023/0184/BN | A | Sage House, Parc Newydd, Treoes. CF35 5DH | Internal alterations knock through to create open plan area and pitch roof refurbishment on existing conservatory. |
| 2023/0186/BN | A | 89, Cornerswell Road, Penarth, CF64 2UY | Re-roof |
| 2023/0187/BN | A | 49, Cog Road, Sully, CF64 5TE | New Porch, Removal of internal wall between kitchen/dining room, sliding doors to rear and alterations to bathroom on first floor |

(b) Building Regulation Applications - Reject

For the information of Members, the following applications have been determined:

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| 2023/0130/BN | R | The Old School, Llysworney, Cowbridge, CF71 7NQ | Timber framed conservatory with dwarf wall. |
| 2023/0136/BN | R | Gigman Mill, St Mary Church, Cowbridge, CF71 7LT | Renovation of second floor of property, re-roofing, insulation walls and roof and installation of new en-suite. |
| 2023/0138/BN | R | Glen Tarran, Llangan, CF35 5DR | Proposed new eco dwelling and integral granny annexe |

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| 2023/0140/BN | R | Maerdy Newydd Farm, Bonvilston, CF5 6TR | New porch, Internal alterations to GF and FF, Single storey extension to ground floor, Single storey extension to First floor, detached garage with hobby room above, detached building for gym/games room, plant room, shower and sauna. |
| 2023/0160/BN | R | PENDING 36, Atlantic Business Park, Hayes Lane, Sully. CF64 5XU Refused | PENDING - await plans. Install office and WC on storage mezzanine (existing), fire protect mezzanine and staircase enclosure |
| 2023/0163/BN | R | 156, Windsor Road, Penarth, CF64 1JN | Lower ground floor refurbishment. Making lower ground floor open plan, adding bifold door opening onto rear building wall and relocating kitchen from ground floor to lower ground floor |
| 2023/0170/BN | R | 114, Colcot Road, Barry. CF62 8UH | Replacement windows under 20 |

(c) The Building (Approved Inspectors etc.) Regulations 2000

For the information of Members the following initial notices have been received:

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| 2023/0042/AI | A | 14, Cae Newydd, St Nicholas, CF5 6FF | Property reinstatement works following a fire to existing domestic dwelling |
| 2023/0043/AI | A | Ground Floor Level, Topstak Limited, Unit 42, Vale Business Park, Llandow. CF71 7PF | Warehouse conversion to ground floor showroom |
| 2023/0044/AI | A | 62, Burdons Close, Wenvoe. CF5 6FE | Formation of a structural opening to accommodate installation of a lift |
| 2023/0045/AI | A | 23, Sully Terrace, Penarth, CF64 3DS | Single storey rear extension, renovation of existing house including new first floor bathroom, thermal upgrade of elements, heating and |

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| | | | electrical installations, and internal alterations |
| 2023/0046/AI | A | 19, Meadow Court, St Brides Major, CF32 0SW | Replacement of existing conservatory roof with a Warm Roof System (works to incorporate material alterations to structure, controlled services, fittings and thermal elements) |
| 2023/0047/AI | A | Cardiff International Airport, Rhoose, CF62 3BD | Internal fitout works to form new cafe outlets |
| 2023/0048/AI | A | Hanger Apron One, Bro Tathan, St. Athan. CF62 4AF | Single storey modular office building |
| 2023/0049/AI | A | 4, Harbour Walk, Barry. CF62 5BA | Single storey extension (works to incorporate material alterations to structure, controlled services, fittings and thermal elements) |
| 2023/0050/AI | A | 9, Park Road, Penarth, CF64 3BD | Refurbishment of 1st floor of existing former coach house (partially converted on the ground floor) to create bedroom and adjoin ground floor external storage shed |
| 2023/0051/AI | A | Garnllwyd Barn, Llancafán. CF62 3AT | Refurbishment and alterations to existing care facility (works to incorporate material alterations to structure, controlled services, fittings and thermal elements) |
| 2023/0052/AI | R | 24, Fferm Goch, Llangan. CF35 5DP | 2 new dwellings and associated works |
| 2023/0053/AI | A | 18, Eurgan Close, Llantwit Major. CF61 1QY | Construction of single storey front porch (works to incorporate material alterations to structure, controlled services, fittings and thermal elements) |
| 2023/0054/AI | A | 80, Greenacres, Barry. CF63 2PL | Construction of single storey rear extension |

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| | | | including a Warm Roof System (works to incorporate material alterations to structure, controlled services, fittings and thermal elements) |
| 2023/0055/AI | A | 34, Robinswood Crescent, Penarth. CF64 3JF | Extension to existing garage, garage conversion and dormer extension over garage (works to incorporate material alterations to structure, controlled services, fittings and thermal elements) |
| 2023/0056/AI | A | 56A and 56B, Pill Street, Penarth. CF64 2JR | Full internal refurbishment of existing 2 no. flats and re roof (works to incorporate material alterations to structure, controlled services, fittings and thermal elements) |
| 2023/0057/AI | A | Ty Caehir, Peterston Super Ely, CF5 6LH | Single storey rear extension with lantern roof |
| 2023/0058/AI | A | 60, Bron Awelon, Barry, CF62 6PS | Single storey front and side extension |
| 2023/0059/AI | A | 10, Cwrt Y Vil Road, Penarth, CF64 3HN | Single storey side/rear extension |
| 2023/0060/AI | A | 21, Pwll Y Min Crescent, Peterston Super Ely, CF5 6LR | Single storey rear extension |

(d) Section 32 Building Act, 1984

It is proposed to implement the above section of the Building Act with a view to remove from the filing system, building regulation plans relating to work which has not commenced. This section of the Building Act makes provision for the Local Authority to serve notice in respect of plans which are three or more years old. Where such notices have been served (when the proposal has not commenced), it means that the plans are of no further effect and can be destroyed.

It is proposed to serve notices in respect of the following Building Regulations applications.

2020/0147/BN
2020/0171/BN

2020/0187/BN

2020/0020/BR

2020/0053/BR

2020/0129/BR

2020/0143/BR

2020/0155/BR

2020/0164/BR

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : **27 APRIL, 2023**

REPORT OF THE HEAD OF SUSTAINABLE DEVELOPMENT

3. PLANNING APPLICATIONS DETERMINED BY THE HEAD OF SUSTAINABLE DEVELOPMENT UNDER DELEGATED POWERS

If Members have any queries on the details of these applications please contact the Department.

Decision Codes

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| A - Approved | O - Outstanding (approved subject to the approval of Cadw OR to a prior agreement) |
| C - Unclear if permitted (PN) | B - No observations (OBS) |
| EB EIA (Scoping) Further information required | E Split Decision |
| EN EIA (Screening) Not Required | G - Approved the further information following "F" above (PN) |
| F - Prior approval required (PN) | N - Non Permittal (OBS - objections) |
| H - Allowed : Agricultural Condition Imposed : Appeals | NMA – Non Material Amendments |
| J - Determined by NAFW | Q - Referred to Secretary of State for Wales (HAZ) |
| L - Approved <u>AND</u> refused (LAW) | S - Special observations (OBS) |
| P - Permittal (OBS - no objections) | U - Undetermined |
| R - Refused | RE - Refused (Enforcement Unit Attention) |
| | V - Variation of condition(s) approved |

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| 2019/01041/3/N MA | A | Pencoedtre High School, Merthyr Dyfan Road, Barry | Non Material Amendment - Amendment to condition 13. Planning permission ref: 2019/01041/RG3 - Construction of a replacement secondary school building at the site of the existing Pencoedtre High School, sports facilities, and associated works (including landscaping, access and engineering works) along with the demolition of the existing secondary school building |
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| 2021/00231/1/C D | A | University Hospital Llandough, Penlan Road, Llandough, Penarth | Discharge of Condition 4 (CTMP). Planning approval 2021/00231/FUL - Two storey Endoscopy extension to house new plant room on the first floor and new recovery area on the ground floor. The existing recovery area re- modelled to house two new theatres |
| 2021/00950/1/N MA | R | 36, Porlock Drive, Sully MA | Non Material Amendment - Conversion of existing flat roof to gable end pitched roof to accommodate home office. Planning permission ref: 2021/00950/FUL - Rear 2 storey extension to dormer bungalow including extending single storey element |
| 2022/00214/FUL | A | 3, The Meadows, Corntown | Demolition of existing single storey rear extension, outbuilding and porch and construction of proposed single storey rear extension and two storey side extension and new porch |
| 2022/00416/1/N MA | A | 133, Lavernock Road, Penarth | Non Material Amendment - Omission of projecting annexe living room, reducing the length of the extension on the south- eastern boundary. Infill of courtyard previously proposed between the kitchen extension and the annexe. Change from red brick to render on the external walls generally (noting that the side elevation facing no. 135 is already consented as render finish). Planning approval 2022/00416/FUL - |

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| | | | Ground floor rear and side extension. Removal of existing chimneys and replacement of existing roof covering. Partial removal of front boundary wall with new crossover to provide second driveway vehicular entrance |
| 2022/00649/FUL | A | Coed Hills Rural Artspace, Llantrithyd Road, St. Hilary | Two new polytunnels. Maintaining land use as agricultural |
| 2022/00742/FUL | A | 116, Andrew Road, Penarth | Retention of as built extensions, alterations to roof, rear dormer and other alterations to the dwelling |
| 2022/00751/FUL | A | Tyn Y Cae, Pendoylan, Cowbridge | Proposed demolition of existing dwelling and stable, construction of new dwelling, reinstatement of garden to agricultural land, and associated works |
| 2022/00767/ADV | A | Washington Buildings, Stanwell Road, Penarth | Replacement fascia signage to new shop front glazing with manifestation to glazing and addition of LED screen |
| 2022/00808/FUL | A | Pantwilkin Stables, Llanquian Road, Aberthin | Retention of stable block and yard as built and change of use of stables to a mixed use of stables and equine veterinary hospital with ancillary offices and facilities |
| 2022/00844/FUL | A | 10, Tair Gwaun, Penarth | Part retrospective application for a 1 metre high fence adjacent to the highway (reduced from 1.2 metres) which then increases in height to a maximum of 1.5 metres adjacent to the main front elevation of the house. |

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| 2022/00909/1/N MA | A | The Misk, 7, Flush Meadow, Llantwit Major | Non Material Amendment - Alterations to previously approved fenestration in way of size and shape. Alterations also to doors and the addition of a Velux window. Garage door also to be altered. Planning permission ref: 2022/00909/FUL - Demolition of existing garage, utility room, canopy and conservatory. Refurbishment and extension to create open plan living space and additional master bedroom and ensuite at first floor, upgrade of thermal fabric of the existing house. |
| 2022/00911/1/N MA | A | 32, Clos Yr Ysgol, Dinas Powys | Non Material Amendment - Cladding on garage conversion - Request brown/grey. Horizontal (not vertical) panelling. Rear, front and garden sides cladded instead of rendered. Rear entrance door of garage conversion - Sliding patio door. Planning permission ref: 2022/00911/FUL - Removal of existing glass box to rear of property. New single storey extension to rear. Existing garage remodelled internally - mezzanine level with Juliet balcony created. Canopy over and shed to right of property connecting to existing garage and proposed extension |
| 2022/00989/FUL | A | 65, Lavernock Road, Penarth | Phase 1 - Single storey garage side extension and two storey extension to the rear with internal alterations. Phase 2 - First |

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| | | | floor side extension over the garage |
| 2022/01000/FUL | A | 25, Sully Terrace, Penarth | Two storey rear extension / loft conversion/front porch / new bay window |
| 2022/01072/FUL | A | 8, Lynmouth Drive, Sully | Demolition of existing residential property and replacement with 4 bedroomed dwelling and associated car parking |
| 2022/01083/FUL | A | 19, Hensol Villas, Hensol | Changes to elevations of previously approved extensions (Ref: 2019/00971/FUL). First floor rear balcony. Retention of outbuilding for use as ancillary annexe living accommodation. Widen dropped kerb and access for vehicle on front forecourt to improve off road parking. |
| 2022/01156/FUL | A | 2, Norman Cottages, Michealston Le Pit Road, Michaelston Le Pit | Variation of Condition 3 (Render) to allow for rendered external wall insulation |
| 2022/01178/FUL | A | 71, Plymouth Road, Penarth | Change the existing windows to front elevation to uPVC Roseville Ultimate Rose double glazed sash windows. This includes both ground and first floor bay windows plus smaller first floor window |
| 2022/01213/FUL | A | 13, St Cyres Road, Penarth | Rear single storey flat roof extension with triple sliding glazed door. Loft conversion with side dormer and front and rear skylights |
| 2022/01225/FUL | A | 124, High Street, Barry | Proposed change of use of ground floor office to 2 bedroom residential unit |

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| 2022/01259/FUL | A | 34, St. Josephs Mews, Penarth | Proposed conversion of garage to habitual room |
| 2022/01268/FUL | A | 38, Windsor Road, Penarth | Change of use to A3 use - ground floor bar and restaurant, upper floor bars and private dining area and outside drinks terrace facing onto Windsor Road and Hickman Road. Construction of two storey rear extension with undercroft to accommodate services in undercroft. Kitchen use on ground floor and A3 private dining use on first floor. New rear external fire escape stair |
| 2022/01276/FUL | A | Sunnycroft, Graig Penllyn | New pitched roof to replace leaking flat roof above existing garage. Conversion of existing garage into kitchen area and erection of timber framed car port |
| 2022/01283/FUL | A | 17, Castle Close, Boverton, Llantwit Major | Proposed rear extension, single storey ground floor extension to provide enlarged lounge, kitchen and dining areas |
| 2022/01300/FUL | R | Red Lion Inn, Pendoylan Road, Pendoylan | Partial demolition of pub building and construction of two dwellings |
| 2022/01307/FUL | A | Mary Immaculate School, Caerau Lane, Wenvoe | Pastoral Care Centre for the existing school |
| 2022/01310/FUL | A | 18, Uplands Crescent, Llandough, Penarth | Demolition of garage, conservatory and lean to. Erection of single storey front and rear extension(s), ground floor fenestration alterations, and associated external works. |

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| 2022/01313/FUL | R | Brynhill Golf Club, Little Brynhill Lane, Barry | Removal of Condition 3 - relating to Boundary Fence - 2022/00403/FUL for extension and formalisation of car parking area |
| 2022/01325/FUL | A | 1, Larchwood, Wenvoe | Proposed single storey double garage and study extension |
| 2022/01331/FUL | A | 21, Trebeferad, Boverton, Llantwit Major | Porch addition, single storey side and rear extension. Gabling the roof and dormer addition |
| 2022/01335/CAC | R | Red Lion Inn, Pendoylan Road, Pendoylan | The reduction in size of the closed Red Lion Pub, in order to re establish the business on a scale proportional to the community |
| 2022/01340/FUL | A | Seashore Grill and Cafe Bar, Beach Road, Swanbridge | Renewal of planning permission under previous planning application, 2017/00796/FUL, of the main restaurant kitchen extension and additional internal alterations to facilitate additional catering requirements |
| 2022/01344/LBC | A | Pwll Y Wrach, Colwinston | Alterations and enlargement of the existing terrace area and steps to facilitate the removal of the conservatory on west elevation (in accordance with 2019/00086/LBC) and removal of tennis court |
| 2022/01349/FUL | A | 5, Byrd Crescent, Penarth | Proposed dormer loft conversion |
| 2022/01350/FUL | A | 26, Victoria Square, Penarth | Single storey rear extension with improved access to basement |

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| 2022/01353/FUL | A | 12, Philadelphia Close, Barry | Demolition of existing rear extension. Proposed two storey side and rear extension, porch extension and dormer loft extension and associated remodelling works |
| 2022/01355/FUL | A | 18, Newbarn Holdings, St. Athan Road, Flemingston | Proposed first floor side extension, link and outbuilding conversion |
| 2022/01357/FUL | A | 215, Ffordd Y Dociau, Barry | Garage conversion to living space and new raised decking and steps area to rear |
| 2022/01358/FUL | A | 6, Woodstock Mews, North Road, Cowbridge | To replace lounge window with French doors, opening into the room. Appropriate safety rail attached externally |
| 2022/01363/FUL | A | Corner Piece, 18, Llanmaes Road, Llantwit Major | Proposed demolition of single storey dwelling and erection of two storey dormer dwelling |
| 2022/01375/FUL | A | 28, Pant Y Celyn Place, St Athan | Single storey front and rear extensions |
| 2022/01376/FUL | A | Fairoaks, Tyn Y Pwll Farm, Trehedyn Lane, Peterston Super Ely | Demolition of existing extensions, renovation and extension of dwelling and associated drainage, landscaping, boundary treatments and works |
| 2022/01384/LBC | A | Penarth Yacht Club, Esplanade, Penarth | Replacement of damaged bath stone windowsill to match existing |
| 2023/00011/FUL | A | Tyn Y Cae Cottages, Peterston Super Ely | Proposed change of use of existing stables to holiday let accommodation |
| 2023/00016/FUL | A | Flush Cottage, Flanders Road, Llantwit Major | Proposed single storey pitched roof extension and external alterations |

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| 2023/00021/FUL | A | Glasfryn, 11, Lower Cwrt Y Vil Road, Penarth | Construction of a single storey garden building to contain a gym and resistance pool |
| 2023/00022/FUL | A | Pwll Y Wrach, Colwinston | Removal of existing greenhouse and erection of replacement greenhouse |
| 2023/00036/FUL | A | 25, Highwalls Road, Dinas Powys | Single storey rear extension, two storey side extension and new front porch. Widening of existing vehicular access and crossover |
| 2023/00038/FUL | A | Fairways, Wick Road, Ewenny | Two storey rear extension, rear dormer, front porch and external alterations |
| 2023/00046/LAW | A | 23, Kingsland Crescent, Barry | Change of use to a HMO: 23 Kingsland Crescent (whole building) which is divided into 5 self-contained flats, and has been used as such for in excess of 10 years |
| 2023/00048/FUL | A | 39, Marine Drive, Ogmore By Sea | House remodelling. Reconfiguration of existing dormers and roof and general amendments to the ground floor |
| 2023/00049/FUL | A | 64, Portland Drive, Barry | Construction of single storey lean to extension to rear of property |
| 2023/00050/FUL | A | Land South of Rubb Hangar, Keithrow, Bro Tathan, St. Athan | Office accommodation with all associated works including drainage |
| 2023/00055/FUL | A | 25A, Archer Road, Penarth | Amendment to previously approved rear extension scheme to bring dining area in line with approved games room |

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| 2023/00056/FUL | A | 20, Knowbury Avenue, Penarth | New entrance porch with balcony over. proposed single storey rear extension along with associated works |
| 2023/00059/FUL | A | 7, Paget Place, Penarth | Proposed garden room extension and associated works. New windows to front elevation. Existing garage at rear of garden to be converted into studio. |
| 2023/00060/FUL | A | 6, St. Fagans Avenue, Barry | Double storey side extension |
| 2023/00062/FUL | A | Tennis Court, The Broad Shoard, Cowbridge | Replacing metal halide floodlights with LEDs |
| 2023/00064/RG3 | A | Cold Knap Gardens, Lakeside, Barry | Replacement of the existing skatepark with a new concrete wheeled sports facility and alterations to the path layout in Cold Knap Park to improve accessibility |
| 2023/00065/LAW | A | 75, Salop Street, Penarth | Proposed single storey extension to the rear of existing domestic dwelling |
| 2023/00068/FUL | A | 9, Merthyr Dyfan Road, Barry | Full planning application for change of use from C3 (Dwellinghouse) to C3(b) Residential Supported Living plus residential extension |
| 2023/00073/FUL | A | Floors On Floors, 10, Cornerswell Road, Penarth | Rear extension for WC to shop and Juliet balcony to rear |
| 2023/00081/FUL | A | Barons Court, Penarth Road, Penarth | Change of use of part of ground floor for a beauty clinic. No fabric alterations, internally or externally are required. |

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| 2023/00084/PNT | A | Skomer Road, Barry | Proposed 5G telecoms installation: H3G 15m street pole and additional equipment cabinets |
| 2023/00086/FUL | A | Llanvithyn Farm, Llandarfan | Double storey side extension |
| 2023/00089/FUL | A | 26, Collard Crescent, Barry | Loft conversion with rear dormer. Single storey rear extension |
| 2023/00093/LAW | A | The School House, Penllyn | Single storey rear extension |
| 2023/00096/FUL | A | 24, Grange Gardens, Llantwit Major | Single storey extension |
| 2023/00099/FUL | A | 7, Stanton Way, Penarth | Extensions to existing bungalow, to include raising of ridge height, dormers to front and rear. gable to front with balcony. New garden store. Existing driveway access widened |
| 2023/00113/FUL | A | 11, Ham Lane South, Llantwit Major | Demolition of single storey extension and construction of new single storey extension |
| 2023/00115/FUL | A | 125, St. Davids Crescent, Penarth | Construction of single storey rear extension |
| 2023/00123/FUL | A | 2, Wolfe Close, Cowbridge | Single storey front, side and rear extension with dormer conversion |
| 2023/00132/ADV | A | Former Tourist Information Centre, Ground Floor, Paget Road, Barry | External (non permanent/removable) tension banner graphic material wrap of the ground floor of the building. Front and side aspects only. To include RNLI brand colours, directional wayfinding arrows, signage and use of RNLI 'Storm Force' characters. Using a |

| | | | |
|----------------|---|-----------------------------------|--|
| | | | changeable and removable FlexFrame tension banner system with anchor points fixed to masonry and some aluminium composite graphics |
| 2023/00135/FUL | A | 15, Oakfield Road, Barry | Removal of existing flat roof and add a new roof tile pitched roof. New external bi fold doors and roof lights. Internal alterations |
| 2023/00176/FUL | R | 42, Westbourne Road, Penarth | Proposed off road charging area for 2 no. electric vehicles |
| 2023/00186/FUL | A | 1, Lower Cwrt Y Vil Road, Penarth | Replacement of existing single glazed timber sash windows with matching style white upvc framed double glazed sash windows |
| 2023/00189/FUL | A | 40, Heol St. Cattwg, Pendoylan | Ground floor rear extension with modified roof and roof windows |

THE VALE OF GLAMORGAN COUNCIL

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REPORT OF THE HEAD OF REGENERATION AND PLANNING

4. APPEALS

(a) Planning Appeals Received

None.

(b) Enforcement Appeals Received

None.

(c) Planning Appeal Decisions

| | |
|----------------------|---|
| LPA Reference No: | 2022/01039/FUL |
| Appeal Method: | Written Representations |
| Appeal Reference No: | CAS-02457-R7K9Y1 |
| Appellant: | Mr David Davey |
| Location: | 51, The Parade, Barry |
| Proposal: | Loft conversion including replacement of front aspect Velux window with 2 x velux cabrio windows, elevated side aspect Velux and elevated rear aspect velux above new internal stairwell for additional natural light into loft |
| Decision: | Dismissed |
| Date: | 23 April 2023 |
| Inspector: | I Stevens |

Summary

The main issue was considered to be whether the proposed development would preserve or enhance the character or appearance of the Barry Marine Conservation Area. The Barry Marine Conservation Area Appraisal and Management Plan (CAAMP) dated July 2009, identified the appeal property as part of a group of unlisted 'positive buildings' that are recognised as part of the planned development of the Garden Suburb from the 1930s.

The appeal proposal was to replace a small rectangular roof light on the property's front elevation roof slope with two larger roof lights, along with new roof lights on the side and rear elevations. The Inspector agreed that the proposed side and rear elevation roof lights would have a minimal impact on the street scene and identified that the outstanding issue concerned the proposed roof lights on the front elevation.

The Inspector considered that the combined area of the proposed roof lights (2.3m x 2.4m), would occupy a large section of the roof and be visually dominant along the roof plane and appear as unsympathetic additions. It was considered that this harmful effect would be reinforced by the projection of the cabrio window out from the slate roof slope, when fully opened. The windows would be prominently located on the front elevation, highly visible from The Parade and the junction of Cold Knap Way. They would be incongruous additions to the roof slope and detract from the traditional appearance of the host building and the coherence of its neighbouring group of properties, as identified in the CAAMP.

It was therefore concluded that the proposal would fail to preserve or enhance the appearance of the Barry Marine Conservation Area contrary to Policies SP10 and MD2 of the LDP and that the appeal should be dismissed.

| | |
|----------------------|--|
| LPA Reference No: | 2022/00790/ADV |
| Appeal Method: | Written Representations |
| Appeal Reference No: | CAS-02264-L2Q0G5 |
| Appellant: | Town & Country Advertising Limited |
| Location: | Former Gas Works, North side of Cardiff Road, Barry |
| Proposal: | Display of 2 no. illuminated signboards |
| Decision: | Dismissed |
| Date: | 23 March 2023 |
| Inspector: | R Duggan |

Summary

The main issue was considered to be the effect of the proposed advertisement on the visual amenity of the area. The appeal proposal was to erect a free standing double-sided 48-sheet digital advertisement display on the corner of a vacant area of land on the northern side of Cardiff Road. Each side of the display would measure 3.4m by 6.4m wide and be supported on a steel structure approximately 3.2m off the ground. The screen was proposed to present a range of static images changing every 10 seconds with no animation or special effects.

The Inspector identified the locality was predominantly mixed commercial in character, where corporate advertisements and locational signs of varying size, nature and form were found. However, due to the size and illumination of the proposed display and total height above ground level, it would stand out from other advertisements in the area and be a visually incongruous feature. The impact would be accentuated by the display of changing illuminated images which would be striking and prominent and would not integrate well into the street scene.

Whilst acknowledging that the purpose of a sign was to be seen and that the impact of the sign would be limited to the area in close vicinity of the appeal site, the Inspector concluded that due to its height and overall size, the illuminated advertisement would be an incongruous and dominating feature

and would therefore have a detrimentally harmful impact on the visual amenity of the area. The Inspector confirmed that the Regulations required that the decision should be made only in the interests of amenity and having concluded that permission should be withheld, the appeal was dismissed.

(d) Enforcement Appeal Decisions

None.

(e) April 2023 – March 2024 Appeal Statistics

| | | Determined Appeals | | | Appeals withdrawn /Invalid |
|---|----|--------------------|---------|-------------|----------------------------|
| | | Dismissed | Allowed | Total | |
| Planning Appeals (to measure performance) | W | 2 | - | 2 | - |
| | H | - | - | - | - |
| | PI | - | - | - | - |
| Planning Total | | 2 (100%) | - | 2 (100%) | - |
| Committee Determination | | - | - | - | - |
| Other Planning appeals (inc. appeal against a condition) | | - | - | - | - |
| Enforcement Appeals | W | - | - | - | - |
| | H | - | - | - | - |
| | PI | - | - | - | - |
| Enforcement Total | | - | - | - | - |
| All Appeals (excludes non validation appeals) | W | 2 | - | 2 | - |
| | H | - | - | - | - |
| | PI | - | - | - | - |
| Combined Total | | 2 (100%) | - | 2 (100%) | - |

Background Papers

Relevant appeal decision notices and application files (as detailed above).

Contact Officer:

Sarah Feist - Tel: 01446 704690

Officers Consulted:

HEAD OF SUSTAINABLE DEVELOPMENT

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : **27 APRIL, 2023**

REPORT OF THE HEAD OF SUSTAINABLE DEVELOPMENT

5. TREES

(a) Delegated Powers

If Members have any queries on the details of these applications please contact the Department.

Decision Codes

A - Approved

R - Refused

E Split Decision

| | | | |
|----------------|---|--|--|
| 2023/00043/TPO | A | Llanblethian Castle, Cowbridge | Works to Tree(s) covered by Tree Preservation Order No. 7, 1973 |
| 2023/00052/TPO | A | Millbrook, 2, Mill Lay Lane, Llantwit Major | Work to Trees covered by TPO No.3 of 1977: G5 - 3 Sycamore Trees - 30% crown reduction |
| 2023/00053/TCA | A | 21, Church Avenue, Penarth | Work to Tree within Penarth Conservation Area: 1x Yew - reduce by 5-10cm to trim off new growth back to previous level |
| 2023/00067/TPO | A | 1, Court Close, Llantwit Major | Work to Tree covered by TPO No.03 of 1977: Ash (Rowan) tree situated at the rear of property - Trim some overhanging branches |
| 2023/00071/TPO | A | Great House, Llanmaes | Work to Tree(s) covered by Tree Preservation Order No.1, 1977: Removal of a limb growing over the garden of Brown Lion House. |

| | | | |
|----------------|---|---|---|
| 2023/00104/TCA | A | Colwinston House, Colwinston | Works to trees in the Colwinston Conservation Area: Shaping and crown reduction of 3x Sycamore trees on front drive. Pruning of 2x small ornamental trees in bottom hedge. Minor crown lift of 1x Sycamore and 1x Ash |
| 2023/00122/TCA | A | 8, Park Road, Penarth | Work to tree in Penarth Conservation Area: T1. Beech - Partially reduce crown |
| 2023/00159/TCA | A | 16, Cwrt Y Vil Road, Penarth | Work to Trees in a Conservation Area: Fell T1 (Silver Birch) and Fell T2 (Bay Tree). |
| 2023/00161/TCA | A | Glen Haven, Colhugh Street, Llantwit Major | Work to Tree(s) in a Conservation Area: Fell an Ash tree. We have an Ash tree with Dieback. |
| 2023/00192/TCA | A | Flemingston Road, Flemingston | Crown lift works to Sycamore Tree within the Flemingston Conservation Area |
| 2023/00219/TCA | R | Stablau Hir, Tredogan Road, Penmark | Work to Tree in Penmark Conservation Area: Felling of 1 silver birch tree in front garden of property |
| 2023/00283/TPO | A | Vale of Glamorgan Hotel, Hensol Road, Hensol | TPO No 4 2003 -T1 - Oak - Remove to ground, T2 - Oak - Remove to ground |

THE VALE OF GLAMORGAN COUNCIL

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REPORT OF THE HEAD OF SUSTAINABLE DEVELOPMENT

7. ENFORCEMENT ACTION

LAND AND BUILDINGS AT BARRY BIOMASS, WOODHAM ROAD, BARRY

Executive Summary

This report seeks authorisation for appropriate variations to the Enforcement Notice (EN) issued under section 172 of the Town and Country Planning Act 1990 (as amended) to be agreed following the appeal lodged and recent correspondence received from Planning and Environmental Decisions Wales (PEDW) in respect of the development undertaken at the Barry Biomass site, in Woodham Road, Barry.

The report recommends that, in light of the information which has now been made available to the Council since enforcement action was taken, regarding the implementation of the development approved under applications 2015/00031/OUT and 2016/00187/RES, agreement is provided to Planning and Environmental Decisions Wales (PEDW) that appropriate variations may be carried out to the EN in the following respects: 1) to more accurately reflect the breach of planning control that has been undertaken and 2) to include an additional/alternative option to secure a remedy to the breach of planning control. The purpose of agreeing a variation of the EN is to enable the appeal to focus on the matters which are in dispute and thereby reduce the time and resources which might otherwise be spent on producing evidence that is not relevant to the determination of the appeal.

Background

1. This report seeks authorisation for appropriate variations to the EN previously issued by the Council under Section 172 of the Town and Country Planning Act 1990 (as amended) to be agreed in respect of the development which has been undertaken at the Barry Biomass site, in Woodham Road, Barry. The site is located to the north-east of the industrial units along Woodham Road with access off David Davies Road and has undergone extensive re-development to provide the biomass facility.
2. Following the Council's investigation of a number of complaints regarding the development, a report was previously considered at the Planning Committee on 1st September 2021, where the discrepancies between the consented scheme and built development were outlined including, differences between the approved layout and elevation plans, the provision of additional structures, plant and equipment and the extension of the site to the north.
3. As identified in that committee report, extensive correspondence had been undertaken with the developer which had suggested that the project had been 'developed substantially in accordance with planning permission

15/00031/OUT and reserved matters approval 2016/00197/RES'. However, in the absence of any specific information from the developer identifying which elements of the development had been undertaken in accordance with the approved scheme and the submission of appropriate planning applications to regularise the remaining discrepancies, this resulted in the development as a whole being considered unauthorised.

4. Authorisation was therefore sought for an EN to be issued which sought the cessation of the operation of the renewable energy plant, including the carrying out of any performance testing, the removal of the renewable energy plant and associated equipment from the land, the cessation of the use of the land to the north and the removal of containers and vehicles and the restoration of the land to its former condition prior to the commencement of development.
5. The EN was subsequently issued by the Council on 17th September 2021 and contained the following requirements:
 - (i) Permanently cease the operation of the renewable energy plant, including the carrying out of any performance testing.
 - (ii) Permanently remove the renewable energy plant including all buildings, plant and associated equipment from the Land.
 - (iii) Permanently cease the use of that part of the Land edged blue on the Plan for the storage of containers and the parking and manoeuvring of vehicles in association with the renewable energy plant.
 - (iv) Permanently remove the containers and vehicles from that part of the Land edged blue on the Plan resulting from the cessation of the use identified in step (iii) above.
 - (v) Following the taking of steps (ii) and (iv) above, restore the Land to its former condition prior to the commencement of development.
6. The compliance periods specified in the notice were one day for step (i), six months for steps (ii), (iii) and (iv) and nine months for step (v) and these periods were to begin with the day on which the notice was due to take effect.

Update on Matters Since Issuing of Enforcement Notice

7. As Members will be aware, an appeal was lodged against the EN with Planning and Environment Decisions Wales (PEDW) on 15th October 2021, together with an appeal against the Council's non-determination of an application which sought to discharge all outstanding planning conditions relating to the renewable energy facility (2015/00031/5/CD). As a result of the appeal, the effect of the EN was suspended until the outcome of the appeal is known.
8. The Statement of Case provided on behalf of Biomass UK No.2 Limited confirms that the basis of their appeal is that:

- (a) *in respect of the Renewable Energy Facility*
 - (i) *the as-built development is lawful in all material respects;*
 - (ii) *it was not expedient or necessary for the Council to take enforcement action and that the measures proposed in the Notice are unreasonable and excessive and the Notice should not be upheld;*
 - (iii) *to the extent that there are any genuine concerns regarding control over the as-built development then these could be addressed through the offer of a unilateral undertaking pursuant to section 106 of the 1990 Act; and*
 - (b) *in respect of the Northern Land, while no express planning permission has been granted for the use in question there is no reason for planning permission not to be granted. Furthermore, if the Council's concern as stated in the Notice concerns the use in question, then the measures proposed in the Notice are unreasonable and excessive and the Notice should not be upheld.*
9. The appeal made by Biomass UK No. 2 Limited also includes an application for costs against the Council, which their Statement of Case confirms has been made *'in respect of the unreasonable behaviour of the Council in respect of the renewable energy facility and the northern land'*.
10. Since the lodging of the appeal against the EN, there have been a number of further developments of which Members should be aware. On 15th December 2021, the Welsh Government confirmed that the appeals lodged had been 'called-in' by Welsh Ministers and therefore following the holding of a public inquiry, the report and recommendation of the Planning Inspector appointed by PEDW would need to be considered by them before a final decision was reached.
11. On 13th January 2022, PEDW confirmed that the Welsh Ministers had issued a screening direction and directed that the development that was the subject of the appeal, was EIA development and advised the developer that the appeal must be accompanied by an ES to be submitted by 13th April 2022. Following an initial request made by the developer to extend the date of submission for the ES, PEDW agreed that this could be extended until 13th July 2022, however a further extension was not agreed by PEDW and a new deadline of 29th July 2022 was provided.
12. On 1st April 2022, the developer submitted correspondence to the Council which suggested that rather than seeking to remedy the Council's concerns relating to the identified discrepancies and additional structures and its ability to be able to regulate the operation of the plant in the future, the EN had sought the complete removal of the plant which was extreme and unreasonable. It was confirmed that the developer had sought Counsel's opinion, which had suggested that the EN was unlawful and should therefore be withdrawn. It was also suggested that as an alternative to taking enforcement action, a further option was to control the development by way of a unilateral undertaking under S106 of the Act, as an alternative to requiring

compliance with planning conditions attached to the 2015 consent. That opinion was based on the assertion that the 2015 permission had been lawfully commenced, primarily as a result of the piling works that were carried out in May 2016, at which point, the Council had already discharged the five pre-commencement conditions.

13. Following the receipt of this correspondence, it was identified by officers that the five conditions requiring details to be approved prior to the commencement of development had been formally discharged and there was no evidence in the Council's records to suggest that the piling operations had not been undertaken in accordance with the approved plans. Concerns remained however over the implications of withdrawing the EN as it was considered that it would not be appropriate to rely on other controls that were either already in place (such as the NRW permit) or were intended to be put in place via the proposed legal agreement in order to properly control the constructed development, particularly as the EIA process had not yet been concluded. If the EN was to be withdrawn and re-issued to include the requirement to modify the development to that which was approved under the 2015 consent, it was acknowledged that the submission of further planning applications would still be required to regularise elements falling outside of that consent.
14. Furthermore, it was considered that through the EN appeal, there was already an available option for amending the EN if the Planning Inspector considered that the wording of the notice could be amended to better reflect the breach, or whether the steps required to comply with the requirements of the notice were considered excessive and lesser steps would overcome the objections to the development. The developer had already included such a proposal as part of their appeal against the EN under ground (f) and it was therefore considered that such a variation could be incorporated by the Planning Inspector if it were considered appropriate, without causing any injustice to the developer.
15. The ES was received on 28th July 2022 and was published with a 90 day public consultation period expiring on 23rd November 2023. PEDW also formally started the EN appeal and linked Discharge of Condition appeal on 5th September 2022, requiring representations on either appeal to be submitted to them by 23rd November 2022.
16. Following the Members' briefing session on the Biomass appeals held on 11th November 2023, the Council submitted its Statement of Case to PEDW in respect of both appeals on 23rd November 2022 which set out its reasons for taking enforcement action and why it was considered necessary to regularise the development. The Statement of Case advised that the Council had agreed to a Preliminary Statement of Common Ground (SOCG) with the appellant on 17th November 2022, which confirmed that the principle of a wood fired renewable energy plant on the appeal site was established by the 2010 and 2015 permissions and that there was no dispute between the parties about the *principle* of a wood fired renewable energy plant on the appeal site. The SOCG followed the position set out in the Planning Committee report on 1st September 2021 and discussed at the Members' briefing session, that the purpose of taking enforcement action was to secure the regularisation of the existing development.

17. On 10th January 2023, the developer submitted three applications with the aim of regularising the unauthorised development. The first of these applications (2015/00031/1/NMA) is a non-material amendment application relating to the addition of 1) the Lean-to structure adjacent to the Fuel Reception Building, 2) the Emergency Diesel Generator and Tank and 3) the Fire Kiosk. The second application (2023/00032/FUL) is a retrospective full planning permission for the development comprising a wood fired renewable energy plant and associated structures without complying with Condition 5 (Drawings) attached to planning permission 2015/00031/OUT and the third application (2023/00033/FUL) relating to the land to the north, is a retrospective application for external storage, vehicle turning and vehicle layover, and perimeter fencing for use in association with the adjacent renewable energy plant. As two of the applications (2023/00032/FUL and 2023/00033/FUL) are accompanied by an environmental statement (ES), the applications have been advertised with a 90 day consultation period, expiring on 24th May 2023.
18. The Council's Final Comments on Representations was submitted to PEDW on 31st January 2023. These comments noted that the response received from NRW had not identified any issues relevant to their interests, which could make the retention of the as built facility inappropriate. Following further consultation undertaken on the responses received from DIAG (Docks Incinerator Action Group) and FoE (Barry & Vale Friends of the Earth), which were considered to be representative of the majority of representations received, Public Health Environment Wales confirmed that they had no additional comments to make and no further comments were received from either NRW or SRS.

Further Matters Raised in Recent Correspondence from PEDW

19. On 28th February 2023, correspondence was received from PEDW seeking further comments from the Council and developer on the contents of the EN and specifically, the description of the breach of planning control and requirements of the notice. The letter from PEDW notes that the main parties have provided their position in their statements of case and signed a Statement of Common Ground (SOCG). Reference is also made to the fact that the developer has stated that the 2015 planning permission remains extant (implemented and capable of being completed) and the principle of the development (a wood-fired energy plant) on the appeal site is agreed.
20. It should be clarified that officers are not aware of any statement made to date which has provided any agreement to the 2015 planning permission remaining extant, however having considered the information provided by the developer and having taken further legal advice on the matter, it is considered by officers that the 2015 consent is extant and that it was implemented.
21. The letter from PEDW refers to recent correspondence received from the developer providing information on the three planning applications recently submitted to the Council which, according to the developer, are in line with the suggestions contained in the 1 September 2021 committee report recommending enforcement action. It is suggested by PEDW that such a position does not appear to align with the breach of planning control set out in the EN and its requirement to permanently remove the renewable energy plant

from the land. It is stated that it is important that the allegation accurately describes the breach of planning control, given that it defines the basis of the deemed planning application that can be considered as part of the appeal under ground (a) and the requirements of the EN and appeal under ground (f).

22. The Planning Inspector has therefore invited the Council's comments on the implications of its stated position on the nature of the breach of planning control as set out in the EN. It is requested that the Council considers whether the allegation is a sufficiently precise description and if not, how it might be corrected and the consequential effect on the requirements of the notice. It is also confirmed that the Public Inquiry scheduled to take place in May 2023 will need to be postponed, with a new deadline set for the submission of Written Statements of Evidence, once a new date has been confirmed.
23. In its response, officers have confirmed that further consideration is being given to the nature of the breach set out in the EN. In the initial response to PEDW, officers have also highlighted that the developer's statements regarding the determination of these applications is entirely based on their opinion and not on any discussions with the LPA. There has not been any indication that a favourable approach may be taken and the LPA has advised that there is no guarantee that any retrospective application will be successful in securing the regularisation of the unauthorised development.
24. Officers have confirmed that at the time authorisation was previously given by the Planning Committee in September 2021 for an EN to be issued, it had not been confirmed by the developer what, if any, elements had been constructed in accordance with the 2015 application which would have constituted the implementation of that permission. As a result, the LPA considered that it had no alternative at that time but to take enforcement action against the development as a whole. Whilst the developer has subsequently provided further information to clarify how the 2015 consent was implemented, given the specific nature of the enforcement action that was previously authorised by Planning Committee, it is considered that any proposed variation to that matter would need to be reported back to the Planning Committee before further comments on any potential variation of the notice could be provided to PEDW. It has therefore been confirmed to PEDW that a further response confirming the LPA's position would be provided shortly after the Planning Committee on 27th April 2023 and PEDW has subsequently agreed an extension of time for comments until the end of April 2023.

Details of the Breach

25. The previous Committee report, which was considered at the Planning Committee on 1st September 2021, set out the breaches of planning control that had been identified at the site which included:
 - (i) A discrepancy between the approved elevation and site layout plans - the approved elevations are a 'mirror image' of what was shown on the approved layout plan and the development is therefore shown the wrong way round on the elevation plan to what is shown on the approved layout and what has been constructed on site.

(ii) Additional plant and equipment - there are a number of additional structures that had been constructed at the site which were considered to be at variance with the approved scheme including plant and equipment including the following items: 01 - Lean to FRB, 02 - Lean-to Compressor House with Plant Above, 03 - Urea Silo, 04 - Discharge 'Incline' Conveyor, 05 - Screening Tower and Dust Extraction, 06 - Emergency Diesel Generator and Diesel Tank, 07 - Fire Kiosk, 08 - Fire Water Tank and Pump House, and 09 - WPD Reactor and Transformer Unit.

(iii) An extension of the site to the north - the land which is located immediately north of the site has been used throughout the construction phase and continues to be used for storage containers and a vehicle turning space.

26. As confirmed above, the developer has recently submitted three separate applications which seek to regularise the various inconsistencies with the 2015 application. It should be noted it has been made clear to the developer, as with the submission of any retrospective planning application, that all applications are dealt with on their planning merit and there is no guarantee that any application will be approved. If the existing development is not regularised through the approval of these applications then the developer would however be able to revert back to carrying out the development in accordance with the 2015 consent (in the event that it has been implemented, which is the view of officers as stated above).

Planning History

27. The site benefits from the following planning history:

2023/00033/FUL : Land to the North of Barry Biomass Renewable Energy Facility, David Davies Road, Barry - Retrospective planning permission for external storage, vehicle turning and vehicle layover, and perimeter fencing for use in association with the adjacent renewable energy plant – Undetermined

2023/00032/FUL : Barry Biomass Renewable Energy Facility, David Davies Road, Barry - Retrospective full planning permission for development comprising a wood fired renewable energy plant and associated structures without complying with Condition 5 (Drawings) attached to planning permission 2015/00031/OUT – Undetermined

2015/00031/1/NMA : Barry Biomass Renewable Energy Facility, David Davies Road, Barry - Non-Material Amendment - addition of 1) Lean-to structure adjacent to the Fuel Reception Building, 2) Emergency Diesel Generator and Tank and 3) Fire Kiosk. Planning approval 2015/00031/OUT for a wood fired renewable energy plant - Undetermined

2021/00695/FUL : Barry Biomass Facility, David Davies Road, Barry - A retrospective (S73A) planning permission for the erection and use of a cylindrical fire water tank at its biomass fired renewable energy generation facility at the Barry Docks - Undetermined

2017/01080/FUL : Barry Port Biomass Plant, David Davies Road, Barry - Variation to condition 5 of planning permission 2015/00031/OUT to include fire tank and building as well as relocation of parking - Withdrawn

2017/00262/FUL : Barry port Biomass Plant, David Davies Road, Barry - Erection of the following site services, plant and machinery: (1) Reception Building Conveyor Cover; (2) Reception Building Power Packs; (3) Reception Building Conveyor Cover; (4) Reception Building Conveyor Screening Tower Structure; (5) Fire System Control Kiosks x 6; (6) Fire Water Tank; (7) Fire Water Pump House; (8) ACC Ancillary Equipment Structure; (9) Emergency Generator; (10) Diesel Tank and (11) Process Building Plant Room With Ancillary Air Blast Coolers – Withdrawn

2016/00187/RES : Biomass UI No.2 Limited, David Davies Road, Barry - Approval of the landscaping of the development condition 1 of the outline 2015/00031/OUT – Approved 29/04/2016

2015/00031/5/CD : Barry Port Biomass Plant, David Davies Road, Barry - Conditions 5, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 25 & 29 of Planning Application 2015/00031/OUT – Undetermined (subject of current appeal)

2015/00031/4/CD : Barry Port Biomass Plant, David Davies Road, Barry - Outline application for a wood fired renewable energy plant. - Withdrawn

2015/00031/3/CD : Barry Port Biomass Plant, David Davies Road, Barry - Discharge of Conditions 11, 12, 20 and 29. - Withdrawn

2015/00031/2/CD : Barry Port Biomass Plant, David Davies Road, Barry - Discharge of Condition 13-Sustainable Drainage - Withdrawn

2015/00655/FUL : Land off Woodham Road, Barry - Erection of a new industrial building and the installation of a 9mw wood fuelled renewable energy plant - Undetermined

2015/00031/OUT : David Davies Road, Woodham Road, Barry - Outline application for a wood fired renewable energy plant - Approved 31/07/2015

2014/01065/NMA : Land at Woodham Road, Barry - Modification to Sunrise Renewables planning permission 2008/01203/FUL - Withdrawn 30/10/2014

2010/00240/FUL : Land off Woodham Road, Barry - Erection of new industrial building and installation of 9MW wood fuelled renewable energy plant - Withdrawn 20/04/2010

2008/01203/FUL : Land at Woodham Road, Barry - Erection of new industrial building and installation of 9MW fuelled renewable energy plant - Refused 31/07/2009

2008/00828/SC1 : Land at Woodham Road, Barry Docks - Proposed industrial building and installation of 9MW Biomass Gasification Plant to generate electricity from reclaimed timber - Environmental Impact Assessment (Screening) - Not Required 14/08/2008

1987/00821/FUL : Woodham Way, Barry Docks - Construction of plant store - Approved 17/11/1987

1985/00574/FUL : Woodham Road, North Side, No. 2 Dock, Barry - The land will be enclosed by a security fence and used for the storage of car trailers, such as touring caravans, boats etc. – Approved 23 July 1985.

1984/00348/FUL : Woodham Road, No. 2 Dock, Barry Docks, Barry – Proposed fenced off compound for the purpose of storage and distribution of solid fuel -Approved 17 May 1984.

1984/00214/FUL : Woodham Road, No. 2 Dock, Barry - Erection of a security fence around the plot of land which will be used for the storage of caravans. Approved 1 May 1984.

Planning Legislation

28. Section 173 of the Town and Country Planning Act 1990 states that in relation to the contents and effect of an enforcement notice:
- (3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.
 - (4) Those purposes are -
 - (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
 - (b) remedying any injury to amenity which has been caused by the breach.
 - (5) An enforcement notice may, for example, require -
 - (a) the alteration or removal of any buildings or works;
 - (b) the carrying out of any building or other operations;

Policy and Guidance

29. Welsh Government advice on the enforcement of the planning control is found in the Development Management Manual (Revision 2, May 2017). It states that, *'When considering enforcement action, the decisive issue for the LPA should be whether the unauthorised development would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest.'*

Local Development Plan:

30. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

Strategic Policies:

POLICY SP1 – DELIVERING THE STRATEGY
POLICY SP8 – SUSTAINABLE WASTE MANAGEMENT
POLICY SP9 – MINERALS

Managing Development Policies:

POLICY MD1 - LOCATION OF NEW DEVELOPMENT
POLICY MD2 - DESIGN OF NEW DEVELOPMENT
POLICY MD7 - ENVIRONMENTAL PROTECTION
POLICY MD16 – PROTECTION OF EXISTING EMPLOYMENT SITES AND PREMISES
POLICY MD19 - LOW CARBON AND RENEWABLE ENERGY GENERATION
POLICY MD20 - ASSESSMENT OF WASTE MANAGEMENT PROPOSALS

31. In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP policies.

Future Wales: The National Plan 2040:

32. Future Wales – the National Plan 2040 is the national development plan and is of relevance to the determination of this planning application. Future Wales provides a strategic direction for all scales of planning and sets out policies and key issues to be considered in the planning decision making process.

Planning Policy Wales:

33. National planning policy in the form of Planning Policy Wales (Edition 11, 2021) (PPW) is of relevance to the matters considered in this report.
34. 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.
35. The following chapters and sections are of particular relevance in the assessment of this planning application:

Chapter 3 - Strategic and Spatial Choices

- Good Design Making Better Places
- Promoting Healthier Places
- Sustainable Management of Natural Resources
- Placemaking in Rural Areas
- Accessibility
- Previously Developed Land

- The Best and Most Versatile Agricultural Land
- Development in the Countryside (including new housing)
- Supporting Infrastructure
- Managing Settlement Form –Green Wedges

Chapter 5 - Productive and Enterprising Places

- Economic Infrastructure (electronic communications, transportation Infrastructure, economic development, tourism and the Rural Economy)
- Energy (reduce energy demand and use of energy efficiency, renewable and low carbon energy, energy minerals)
- Making Best Use of Material Resources and Promoting the Circular Economy (design choices to prevent waste, sustainable Waste Management Facilities and Minerals)

Technical Advice Notes:

36. The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:
- Technical Advice Note 11 – Noise (1997)
 - Technical Advice Note 18 – Transport (2007)
 - Technical Advice Note 21 – Waste (2017)
 - Technical Advice Note 23 – Economic Development (2014)

Supplementary Planning Guidance:

37. In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:
- Renewable Energy (March 2019)
 - Sustainable Development (2006)

Welsh National Marine Plan:

38. National marine planning policy in the form of the Welsh National Marine Plan (2019) (WNMP) is of relevance to the determination of this authorisation. The primary objective of WNMP is to ensure that the planning system contributes towards the delivery of sustainable development and contributes to the Wales well-being goals within the Marine Plan Area for Wales. The following chapters and sections are of particular relevance in the assessment of this authorisation:
- Living within environmental limits
 - Maintain and enhance the resilience of marine ecosystems and the benefits they provide in order to meet the needs of present and future generations.
 - Promoting Good Governance
 - Support proportionate, consistent and integrated decision making through implementing forward-looking policies as part of a plan-led,

precautionary, risk-based and adaptive approach to managing Welsh seas.

- Using Sound Science Responsibly
 - Develop a shared, accessible marine evidence base to support use of sound evidence and provide a mechanism for the unique characteristics and opportunities of the Welsh Marine Area to be better understood.

Other relevant evidence or policy guidance:

- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management
- Welsh Office Circular 11/99 – Environmental Impact Assessment
- Welsh Office Circular 24/97 - Enforcing Planning Control
- Welsh Government Development Management Manual – Section 14 Annex “Enforcement Tools”
- Section 58 (1) of the Marine and Coastal Access Act places a requirement on the Council to take decisions in accordance with the appropriate marine policy documents, unless relevant consideration indicates otherwise.

Well Being of Future Generations (Wales) Act 2015:

39. 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.

Recommendations for Variations to the Enforcement Notice

40. At the time the EN was issued in September 2021 and whilst claiming to have implemented the 2015 consent, the developer had not submitted any evidence to prove that this was the case. Due to the uncertainty which existed, it was therefore considered that there was no alternative but to word the EN in such a way to cover the entire development and to seek its removal. It was also considered unlikely, if not impossible, that the developer would amend the scheme to comply with the 2015 planning permission, particularly given the discrepancies identified with the approved plans.
41. It is considered however that the information provided by the developer regarding the implementation of the 2015 consent is material to that position. The recent correspondence from PEDW invites comments on the implications of the Council’s stated position on the breach of planning control on the description of the allegation in the EN. For the reasons given above, the existing wording of the notice does not include reference to the extant consent. However, having regard to the information which is now apparent regarding implementation, it is considered that the breach should reasonably reflect that. Taking account the purpose of issuing an EN as set out in Section 173(4) of the Town and Country

Planning Act 1990 ('the Act') and following the receipt of further legal advice regarding the contents of the EN, it is considered that the breach of planning control (and steps that are required to be undertaken to remedy the breach) should include reference to the 2015 consent. As a result, instead of only requiring the permanent removal of the renewable energy plant including all buildings, plant and associated equipment and the restoration of the land to its former condition prior to the commencement of development, the EN should reasonably give the developer the option to amend the scheme to revert back to the approved 2015 consent. It is not considered that such a variation would give rise to injustice to any party as this would require the developer to continue to implement the consent for which they originally had approval and have commenced. Similarly, it is considered that it would be appropriate for the breach of planning control to be described as a breach of condition of the 2015 permission, as opposed to simply an unauthorised development in its entirety.

42. It is acknowledged that the development of the site continues to attract a significant amount of public interest and scrutiny and there has also been a high level of response to the current appeal against the EN. Having obtained further legal advice on this matter, it is considered however that if the Council were to fail to acknowledge the extant nature of the 2015 consent and agree an appropriate variation of the EN to accommodate this in accordance with Section 173(4) of the Act, such action could constitute unreasonable behaviour and may have a bearing on the matter of costs being sought in connection with the current appeal (as referred to above).

RECOMMENDATION

- (1) That PEDW be advised that the Council would agree to variations of the existing EN issued under Section 172 of the Town and Country Planning Act 1990 (as amended) as follows:
- (i) The breach of planning control alleged in the Enforcement Notice to refer to the carrying out of operational development comprising the construction of a wood fired renewable energy plant together with associated structures not in accordance with the details and plans approved under planning application 2015/00031/OUT (i.e. a breach of condition(s) of that permission).
 - (ii) The requirements of the Enforcement Notice to include the carrying out of the development in accordance with the details and plans approved under planning application 2015/00031/OUT.

Background Papers

Enforcement File Ref: ENF/2020/0230/M

Contact Officer - Sarah Feist, Tel: 01446 704690

Officers Consulted:

All relevant Chief Officers have been consulted on the contents of this report.