

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: 26th September 2024

REPORT OF THE HEAD OF SUSTAINABLE DEVELOPMENT

7. ENFORCEMENT ACTION

LAND AND BUILDINGS AT DYFFRYN SPRINGS, ST. LYTHANS ROAD, DYFFRYN

Executive Summary

This report seeks authorisation to issue an Enforcement Notice under section 172 of the Town and Country Planning Act 1990 (as amended) in respect of a permanent marquee erected on the land at Dyffryn Springs, St Lythans Road, Dyffryn for the purpose of hosting wedding and entertainment functions. The marquee in question has a white vinyl/plastic roof and elevations, with a largely glazed elevation facing the lake (south-west elevation).

The report recommends that as the marquee is considered to have an unacceptable visual impact upon the Special Landscape Area (SLA) and the countryside, an Enforcement Notice is issued requiring the removal of the building from the land in question. Authorisation is also sought to pursue legal proceedings in the event that the Enforcement Notice is not complied with.

Background

1. A complaint was received by the Local Planning Authority on 18 January 2023, regarding the erection of an unauthorised building at Dyffryn Springs, St. Lythans Road, Dyffryn.
2. The site relates to Dyffryn Springs, a wedding venue and fishery located to the south of Home Farm, Dyffryn. The site is situated within the countryside as identified in the Vale of Glamorgan Local Development Plan (LDP). The site also lies within the Dyffryn Basin and Ridge Slopes Special Landscape Area (SLA).
3. The access for the site is located within a C2 Flood Risk Zone, as well as a Sand and Gravel Category 2 Minerals Reserve. To the immediate south of the existing building lies the Dyffryn Golwch SINC, whilst further to the north are the Doghill Moated Scheduled Ancient Monument and the Dyffryn Gardens Historic Park. It is also noted that there are a number of residential properties located near the recently developed new access and track, including 'Well Cottage' which lies to the north, and is a thatched Grade II listed building.
4. A site location plan has been provided and included below.



5. A full planning application was submitted on 5 April 2023 for the permanent retention of the building in question for wedding and entertainment functions (2023/00374/FUL). This application was subsequently refused on 18 March 2024 by virtue of its harmful design and unacceptable visual impact upon the SLA. At the time of writing this report, the building had not been removed and therefore, the development remains unauthorised and in breach of planning control.
6. Following this refusal of planning permission, correspondence has been received on behalf of the landowner suggesting that amendments to the marquee are undertaken together with landscaping measures in an attempt to mitigate the impact of the development. Officers have considered this correspondence however, it is considered that the mitigation in respect of the proposed landscaping would be difficult to deliver and would be unlikely to address the visual impact of the marquee in the wider landscape and SLA.

Details of the Breach

7. Following an initial site inspection, it was confirmed that a large marquee had been erected permanently for the purpose of holding wedding functions without the benefit of planning permission. The marquee in question has a footprint of 12m x 33m, with a smaller 'porch' like area measuring approximately 6m x 9m, with an eaves height of 3m and a main ridge height of 5m. The highest point of the marquee reaches 6m tall in the 'porch' like section, whilst the remainder is approximately 5m tall. The marquee is finished

in a white vinyl/plastic roof and elevations, with a largely glazed elevation facing the lake (south-west elevation).

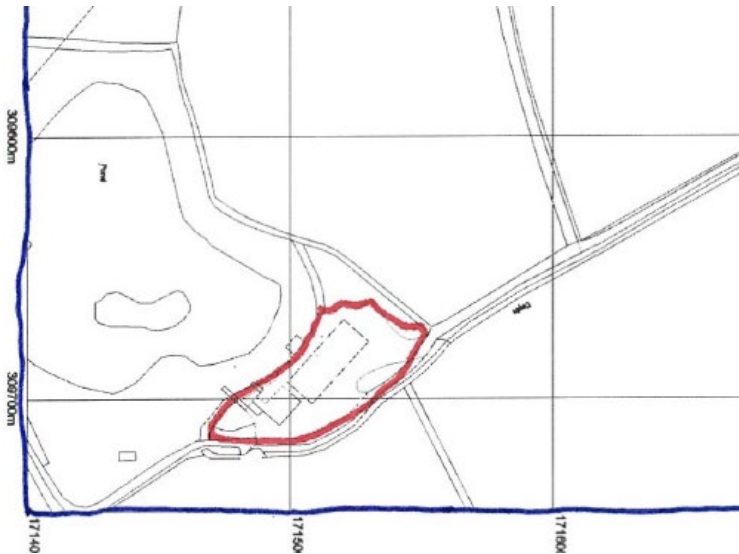
Photographs from site visits:







8. Whilst the site benefits from planning consent for the use of lakes for fishing and an associated amenities building, there are no permitted development rights that would enable the erection of a permanent marquee for wedding and entertainment purposes without the need for planning permission. Therefore, the building in question requires full planning consent from the Local Planning Authority. Although a planning application was submitted in an attempt to regularise the development in April 2023, the application was subsequently determined and refused (2023/00374/FUL). Therefore, the marquee in question remains unauthorised and in breach of planning control.
9. Satellite imagery has confirmed that the current building in question was built within the last 4 years, after September 2021 and information submitted within the full application (2023/00374/FUL) states that the current marquee was erected in March 2022.
10. Further to this, the current building extends beyond the area previously used for wedding and entertainment functions as can be seen in the site location plan provided below.



Action Pursued to Date

11. An initial email was sent to the company address of Dyffryn Springs on 2nd February 2023 to arrange a site visit and examine the building. Following correspondence with the owner, a site meeting was held on 1st March 2023 where access was gained to the site and the inside of the building in question. Discussions regarding the use of the building and the history of the site took place. It was confirmed during this site visit that a previous marquee had been erected on site for a number of years facilitating the wedding venue business, however it was replaced by the current, larger building.
12. A follow up email was sent to the owner on 9th March 2023 confirming that the building requires consent from the Local Planning Authority. The owner was therefore advised to submit a full application in an attempt to regularise the development. It was advised however that planning permission may not be granted for the building. The owner of the site subsequently confirmed that an application would be submitted to the Local Planning Authority. A full planning application was received by the Council's Planning Department on 5th April 2023.
13. An email was sent to the owner on 30th August 2023 confirming that there may be some concerns relating to the acceptability of the application. The application was subsequently refused on 18th March 2024 by virtue of its unacceptable visual impact.
14. As identified earlier in this report, since the refusal of planning permission, correspondence has been received on behalf of the owner which put forward various amendments to mitigate the impact of the development however, officers have advised that these suggestions would not overcome their concerns regarding the impact of the building on the SLA.
15. Further amendments to address the visual appearance of the marquee have also been recently submitted which are under consideration by officers, however at the time of finalising this report, no formal proposal has been submitted seeking planning permission for the retention of the marquee. In the

absence of a suitable alternative proposal being formally determined and implemented and therefore no guarantee that the unacceptable impact of the marquee can be mitigated, it is considered expedient to report the matter to the Planning Committee to seek authorisation for enforcement action.

Planning History

16. The site benefits from the following planning history:

- 1991/00430/FUL - New access road to farm - Approved 26 July 1991.
- 2000/00652/FUL, Address: Field 5644, Home Farm, Dyffryn, St. Nicholas, Proposal: Single storey fishing amenity building with associated children's play area, car parking and access road, Decision: Refused for the following reason:
 1. The proposal represents an unacceptable scale and form of development in an attractive open countryside location and would therefore be contrary to Policies EV3; EV19; LT16 of the Adopted South Glamorgan Structure Plan 1989 and Policies ENV1; ENV25; EMP8 and TOUR5 of the Vale of Glamorgan Unitary Development Plan Deposit Draft (as amended) 1998.
- 2001/00760/FUL, Address: Home Farm, Dyffryn, St. Nicholas, Proposal: Use of lakes for fishing with associated amenities building, car park and access, Decision: Approved subject to conditions, including, landscaping; restriction on hours; drainage; car parking; and restriction on external illumination.
- 2002/00495/FUL, Address: Dyffryn Springs, Home Farm, Dyffryn, St. Nicholas, Proposal: Two additional lakes for angling purposes, with associated disabled car parking and access track, Decision: Approved subject to conditions, including, landscaping; cross sections of track and car parking; restriction on hours to between 7.30am to one hour after dusk; and restriction on external illumination.
- 2003/01078/FUL - Retention of A1 Garden Centre use at Dyffryn Springs Nurseries - Approved 13 November 2003 subject to conditions, including temporary consent to 30 September 2005; and restricted to plant sales only.
- 2006/01660/FUL - Retention of A1 Garden Centre use at Dyffryn Springs Nurseries - Approved 31 January 2007 subject to conditions, including temporary consent to 2 February 2008; and restricted to plant sales only.
- 2008/00395/FUL, Address: Dyffryn Springs, Home Farm, Dyffryn, Proposal: Extension of toilets to comply with disability regulations, Decision: Approved
- 2008/00788/FUL - Proposed permanent continuation of A1 use at Dyffryn Springs Nursery - Approved 5 August 2008 subject to conditions, including restriction on sale of plants only; and removal of permitted development rights for any change of use.

- 2009/00668/FUL, Address: Dyffryn Springs, Home Farm, Dyffryn, Proposal: Temporary permission for a period of 36 months for the erection of a marquee for the months of May to September in any calendar year, Decision: Approved

subject to conditions, including, temporary period of four months in each calendar year and for a maximum total of 12 months or three years, with the marquee not being erected before 1 May and removed from the site on or before 30 September every year until 1 September 2012; and details of the restoration of the site.

- 2012/00364/FUL, Address: Dyffryn Springs, Dyffryn, Proposal: Extension of existing building to provide a club room for fishermen along with a new decked terrace and service compound. Refurbish remainder of building as a wedding venue, Decision: Approved subject to conditions, including, restriction on use for primary purpose of fishery business with wedding functions and other D2 use to be ancillary; matching external finishes; further details of means of enclosure of the service compound; no external illumination; and details of landscaping.
- 2015/00725/1/CD, Address: Dyffryn Springs, Home Farm, St. Lythans Road, Dyffryn, Proposal: Discharge of conditions 5-landscaping, 7-access gates, 9-engineering details bridging of watercourse, Decision: Approved
- 2015/00725/1/NMA, Address: Dyffryn Springs, Home Farm, St. Lythans Road, Dyffryn, Proposal: Widening of entrance splay and red line area to accommodate the required swept path analysis for coaches entering and existing the wedding venue at Dyffryn Springs, Decision: Approved
- 2015/00725/FUL, Address: Dyffryn Springs, Home Farm, St. Lythans Road, Dyffryn, Proposal: Construction of new access track and variation of Condition 2 of planning permission 2012/00364/FUL to remove ancillary restriction on wedding functions (NMA), Decision: Approved subject to conditions, including, restriction of use to fishery and wedding venue; no external illumination; landscaping; details of access gates; hedgerow protection; and engineering details of bridge.
- 2015/01378/SC1, Address: Home Farm, Dyffryn, Proposal: Solar farm, Decision: Environmental Impact Assessment (Screening) - Not Required
- 2017/00328/FUL, Address: Dyffryn Springs, St Lythans Road, Dyffryn, Proposal: Construction of a building to serve as a wedding venue, Decision: Approved subject to conditions, including, restriction of use to existing Dyffryn Springs fishery and wedding venue businesses; restriction on external illumination; details of surface water drainage; and a Construction Environmental Management Plan.
- 2018/01232/FUL, Address: Dyffryn Springs, St. Lythans Road, Dyffryn, Proposal: Construction of a two storey building with a wedding venue function, Decision: Approved subject to conditions, including, restriction of use to existing Dyffryn Springs fishery and wedding venue businesses; restriction on

external illumination; details of surface water drainage; and a Construction Environmental Management Plan.

- 2023/00922/ADV, Address: Dyffryn Springs, St. Lythans Road, Dyffryn, Proposal: Entrance Sign, Decision: Approved.
- 2023/00374/FUL, Address: Dyffryn Springs, St Lythans Road, Dyffryn, Proposal: Retention of replacement marquee for wedding and entertainment functions, Decision: Refused.

Planning Legislation

17. 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

Local Development Plan:

18. 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 SP9 – MINERALS

POLICY SP10 – BUILT AND NATURAL ENVIRONMENT

POLICY SP11 – TOURISM AND LEISURE

Managing Growth Policies:

POLICY MG17 – SPECIAL LANDSCAPE AREAS

POLICY MG21 – SITES OF IMPORTANCE FOR NATURE
CONSERVATION, REGIONALLY IMPORTANT GEOLOGICAL AND
GEOMORPHOLOGICAL SITES AND PRIORITY HABITATS AND SPECIES
POLICY MG22 – DEVELOPMENT IN MINERALS SAFEGUARDING AREAS
POLICY MG29 – TOURISM AND LEISURE FACILITIES

Managing Development Policies:

POLICY MD1 - LOCATION OF NEW DEVELOPMENT
POLICY MD2 - DESIGN OF NEW DEVELOPMENT
POLICY MD7 - ENVIRONMENTAL PROTECTION
POLICY MD8 - HISTORIC ENVIRONMENT
POLICY MD9 - PROMOTING BIODIVERSITY
POLICY MD13 - TOURISM AND LEISURE
POLICY MD17 - RURAL ENTERPRISE

Future Wales: The National Plan 2040:

19. 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. The following chapters and policies are of relevance:

Chapter 3: Setting and achieving our ambitions

- 11 Future Wales’ outcomes are overarching ambitions based on the national planning principles and national sustainable placemaking outcomes set out in Planning Policy Wales.

Chapter 4: Strategic and Spatial Choices: Future Wales’ Spatial Strategy

- Guiding framework for where large-scale change and nationally important developments will be focussed over the next 20 years.
- Strategy builds on existing strengths and advantages and encourages sustainable and efficient patterns of development.

Chapter 5 – The Regions

- The Vale of Glamorgan falls within the South East region.
- Regional policies provide a framework for national growth, for regional growth, for managing growth and supporting growth.
- In the absence of SDPs, development management process needs to demonstrate how Future Wales’ regional policies have been taken into account.

Policy 1 – Where Wales will grow

- Supports sustainable growth in all parts of Wales.
- Development in towns and villages in rural areas should be of an appropriate scale and support local aspirations and need.

Policy 2 – Shaping Urban Growth and Regeneration – Strategic Placemaking

- Based on strategic placemaking principles.

Policy 4 – Supporting Rural Communities

- Supports sustainable and vibrant rural communities.

Policy 5 – Supporting the Rural Economy

- Supports sustainable, appropriate and proportionate economic growth in rural towns.
- Supports development of innovative and emerging technology businesses and sectors to help rural areas unlock their full potential, broadening the economic base and creating higher paid jobs.

Policy 8 – Flooding

- Focus on nature-based schemes and enhancing existing defences to improve protection to developed areas.
- Maximise opportunities for social, economic and environmental benefits when investing in flood risk management infrastructure.

Policy 9 – Resilient Ecological Networks and Green Infrastructure

- Action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated as part of development proposals through innovative, nature-based approaches to site planning and the design of the built environment.

Planning Policy Wales:

20. National planning policy in the form of Planning Policy Wales (Edition 12, 2024) (PPW) is of relevance to the matters considered in this report.

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.

The following chapters and sections are of particular relevance in the assessment of this planning application:

Chapter 2 - People and Places: Achieving Well-being Through Placemaking,

- Maximising well-being and sustainable places through placemaking (key Planning Principles, national sustainable placemaking outcomes, Planning Policy Wales and placemaking)

Chapter 3 - Strategic and Spatial Choices

- Good Design Making Better Places
- Promoting Healthier Places
- Placemaking in Rural Areas
- Previously Developed Land
- The Best and Most Versatile Agricultural Land
- Development in the Countryside (including new housing)
- Managing Settlement Form –Green Wedges

Chapter 4 - Active and Social Places

- Transport
- Living in a Place (housing, affordable housing and gypsies and travellers and rural enterprise dwellings)
- Activities in Places (retail and commercial development)
- Recreational Spaces

Chapter 6 - Distinctive and Natural Places

- Recognising the Special Characteristics of Places (The Historic Environment, Green Infrastructure, Landscape, Biodiversity and Ecological Networks, Coastal Areas)
- Recognising the Environmental Qualities of Places (water and flood risk, air quality and soundscape, lighting, unlocking potential by taking a de-risking approach)

Technical Advice Notes:

21. The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010)
- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 – Design (2016)

2.6 Design which is inappropriate in its context, or which fails to grasp opportunities to enhance the character, quality and function of an area, should not be accepted, as these have detrimental effects on existing communities.

4.3 The local context comprises the characteristics and setting of an area in which a development is located. This includes the area's natural and human history, the forms of settlements, buildings and spaces; its ecology and archaeology; its location and the routes and waterways that pass through it. Understanding the site and its immediate and wider context is the basis for a meaningful and sustainable design response, and is the responsibility of all those involved in the design process, particularly planning applicants and their agents and those formulating and implementing design policy and guidance. Further guidance on appraising context can be found in Site & Context Analysis Guide: Capturing the value of a site6.

4.8 Appraising "character" involves attention to topography; historic street patterns, archaeological features, waterways, hierarchy of development and spaces, prevalent materials in buildings or floorscape, architecture and historic quality, landscape character, field patterns and land use patterns, distinctive views (in and out of the site), skylines and vistas, prevailing uses and plan forms, boundary treatments, local biodiversity, natural and cultural resources and locally distinctive features and traditions (also known as vernacular elements).

- Technical Advice Note 13 – Tourism (1997)
- Technical Advice Note 15 – Development and Flood Risk (2004)
- Technical Advice Note 23 – Economic Development (2014)
- Technical Advice Note 24 – The Historic Environment (2017)

Welsh National Marine Plan:

22. 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.

Supplementary Planning Guidance:

23. In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Biodiversity and Development
- Design in the Landscape

5.7. Landscape

5.7.1. The landscape impact of new development proposals should form an early part of design considerations and include elements such as location, scale, orientation as well as new and existing landscaping. Proposals should seek to complement and enhance key landscape features including long views and open spaces. In sensitive coastal and rural locations such as the Glamorgan Heritage Coast and Special Landscape Areas, it is important that developments are well integrated into the landscape. It should be noted that a Landscape and Visual Impact Assessment will be required for any development that is likely to have a considerable impact on landscape character or have a significant visual effect within the wider landscape (by virtue of its size, prominence or degree of impact on the locality) and should be prepared in accordance with the latest Landscape Institute and the Institute of Environmental Management and Assessment Guidelines. Further advice is available in the Design in the Landscape SPG.

- Economic Development, Employment Land and Premises (2023)
- Minerals Safeguarding (2018)
- Model Design Guide for Wales
- Parking Standards (2019)
- Tourism and Leisure Development (2019)

24. In addition, the following background evidence to the Local Development Plan is considered relevant insofar as it provides a factual analysis and information that is material to the issues addressed in this report:

- Agricultural Land Classification background paper (2015) (Also see LDP Hearing Session 1 Action Point 12 response)
- Designation of Landscape Character Areas (2013 Update)
- Designation of Special Landscape Areas (2013 Update)
- Designation of SLAs Review Against Historic Landscapes Evaluations (2013 Update)
- SLAs Integration with Adjoining Local Authorities (2013 Update)

Other relevant evidence or policy guidance:

- Welsh Office Circular 24/97 - Enforcing Planning Control
- Welsh Government Development Management Manual – Section 14 Annex “Enforcement Tools”

Equality Act 2010

25. The Equality Act 2010 identifies a number of ‘protected characteristics’, namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The Council’s duty under the above Act has been given due consideration in the preparation of this report.

Well Being of Future Generations (Wales) Act 2015:

26. 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.

Reasons for Serving an Enforcement Notice

27. National planning guidance advises that when deciding whether to take enforcement action, the principal issue for the Council should be whether the unauthorised development would have an unacceptable effect on public amenity or the existing use of land and building meriting protection in the public interest and in all cases, the Council is required to consider the expediency of taking action. Enforcement action should not be pursued simply to regularise development which is otherwise acceptable in planning terms and is likely to be granted permission.
28. The main issues which are relevant to the consideration of this case are the principle of development, the planning history of the site and the visual impact of the marquee.

Background and Planning History

29. As highlighted within this report, there is considerable planning history attributed to the site. Of most relevance, is the 2009 consent (referenced 2009/00668/FUL) for the siting of a marquee on the land for a temporary period of 36 months, and the most recent refusal for the retention of the current marquee in question (referenced 2023/00374/FUL).
30. The 2009 application (2009/00668/FUL) was approved with the imposition of a permitted period condition (Condition 1) whereby the marquee could only be erected for four months only, within each calendar year and for a maximum total of 12 months or three years and the marquee was not to be erected before 1 May and was required to be removed from the site on or before 30 September every year until 1 September 2012. This consent for the erection of the marquee was temporary only and as such, on 1 September 2012 the consent ceased and details for the restoration of the site, secured under Condition 2 should have been submitted, within 1 month of the cessation of the use of the site. However, it is noted from the planning history that this did not happen. The marquee forming the basis of this report is a different marquee from the one previously granted temporary consent under application 2009/00668/FUL.
31. In 2012 (ref. 2012/00364/FUL) planning permission was approved to carry out works to an existing fishing building, which included refurbishment of part to be used for weddings. This consent was later followed by application ref: 2015/00725/FUL which granted permission, partly, for amending a condition to recognise that the wedding use was not an ancillary use to the fishing business.
32. In 2017 (ref. 2017/00328/FUL) planning permission was granted for a new building to serve as a wedding venue, which was later replaced with the consent for 2018/01232/FUL for a building for the same uses, albeit the design varied. Neither of these consents have been implemented and both have now expired.
33. Most notably, the refusal of planning permission for the current marquee under application ref: 2023/00374/FUL is most significant to this report. The application was refused, mainly due to the visual impact of the marquee on the SLA and countryside. Therefore, the marquee has been fully assessed by the LPA in respect of the planning issues it raises prior to the writing of this report, and has been considered to have an unacceptable and detrimental visual impact on the Dyffryn Basin and Ridge Slopes Special Landscape Area as well as the wider countryside. The considerations within the officer's refusal are therefore included throughout this report, particularly with regard to the design and visual impact of the development.

Design and Visual Impact

34. Policy MD2 (Design of New Development) states that development proposals should:

1. Be of a high standard of design that positively contributes to the context and character of the surrounding natural and built environment and protects existing features of townscape or landscape interest;

2. Respond appropriately to the local context and character of neighbouring buildings and uses in terms of use, type, form, scale, mix, and density;

35. In addition, policy MD1 (Location of New Development) states that development should have no unacceptable impact on the countryside (criterion 1).
36. As aforementioned, the marquee is situated within a Special Landscape Area (SLA) and as such, policy MG17 (Special Landscape Areas) is of relevance which states that development proposals within SLAs will be permitted only *“where it is demonstrated they would cause no unacceptable harm to the important landscape character of the area.”*
37. As previously outlined in this report, the current marquee in question which has been in situ since March 2022 (as per the dates provided on application form ref. 2023/00374/FUL) differs from the marquee previously temporarily allowed under planning permission ref. 2009/00668/FUL. The marquee approved under 2009/00668/FUL was stated to measure 30m (w) x 10m(d) x 3.9m(h), whereas the current marquee is some 2m wider at 12m and 3m longer at 33m and some 1.1m higher, in addition to the central turret porch feature on the north east elevation which is some 6m high. As such when compared to the previous approved marquee, The current marquee is larger in both footprint and height and contains more “ornamental features”.
38. The officer consideration for the temporary consent previously granted for a marquee in 2009 (ref 2009/00668/FUL) is still to be of material weight given that there has been little material change in the landscape characteristics of the context and setting of the site. In the officer’s report, the following was stated:

“The marquee has a white PVC coated polyester textile cover, and is relatively visible in the surrounding rural environment which consists of open countryside and Special Landscape Area. As the Dyffryn Basin Special Landscape Area is characterised by gently sloping fields, this offers little natural screening to the development. However the marquee has been best sited to minimise its impact on the surroundings, being located next to the existing fishing building and adjacent to the car parking for the fishing facilities. It is also worth noting that the structure is very much temporary in nature and will be taken down at the end of any authorised period. Furthermore, the proposal is associated with an existing business and farm diversification project. Policy EMP7 contains specific criteria regarding such developments and in general supports schemes which do not harm the character of the countryside and have no unacceptable impacts.

Nevertheless it is considered that the marquee by virtue of its location, scale and appearance does have an impact on an area of attractive landscape for the period it is erected. It is noted that the applicant has requested that the marquee is erected for a period of up to 5 months in the summer and for a total of 36 months overall. However is given its large size and visible nature such a period would have a sustained impact on an area of attractive landscape and should be resisted. In this respect the retention of the marquee for a significant period would be contrary to Policies ENV1, ENV4, ENV10, ENV11 and ENV27.”

39. Therefore, the fact that the 2009 application was approved on the strict basis that the marquee was only erected on a short-term basis by virtue of its visible nature is an important consideration when assessing the visual impact of the current larger, permanent marquee. In particular, the reason given for the temporary nature of the consent was stated as being:

To enable the Local Planning Authority to properly control the erection of the temporary building and because the development would not be acceptable save for the fact it is temporary and removed from the site.

40. The marquee was noted as having “a sustained impact on an area of attractive landscape” and as such, its retention “for a significant period of time would be contrary” to policies. It should be noted that whilst the Unitary Development Plan (UDP) has now been replaced with the Local Development Plan (LDP), the overarching policies, such as protection of the countryside and Special Landscape Areas (SLA’s) are still of relevance and the same sentiment is set out within the most up to date Planning Policy Wales (Edition 12).
41. It is also noted that in the 15 years since the approval of the 2009 application, there have been no significant developments or alterations that have impacted upon the overall character of the SLA. Whilst it is understood that an application is currently registered with PEDW for a large solar farm within the immediate vicinity, this application is at very early stages and as such, given the lack of any formal decision, no weight can be given to the application in the consideration of the marquee proposals in respect of any committed development.
42. The footprint of the older marquee is clearly shown in the satellite image below, taken in December, 2009:



43. Whilst planning permission was only granted for the marquee for a temporary period, which would have expired in 2012, the marquee is evident in the following aerial image, taken April, 2019.



44. However, in March 2022, the current marquee which forms the basis of this report was erected, as can be seen in the aerial image below.



45. These aerial images demonstrate that, although the previous marquee is similar in terms of colour and design, the current marquee differs in structure and is greater in scale than the one previously in situ. The previous assessment in the 2009 application and the reason for the temporary consent recognised the sustained impact on an attractive landscape a permanent marquee would have and this remains relevant in considering the current structure.
46. In the 'Designation of Special Landscape Areas' background paper (2013) for the LDP, the Upper and Lower Thaw Valley SLA states the following on primary landscape qualities and features:

"The SLA is dissected by the Thaw River valley. To the north, the area is sparsely settled with small villages and several farms. The generally open landscape has high intervisibility and overlooks Bridgend, bordering the M4, and colouring the perception of the area. Mynydd Maendy wind farm to the north also has a visual impact on the sense of place. There are a number of pleasant views to well-managed fields and wooded areas, but these are affected in places by gappy hedgerows and housing development. Trees and hedgerows are declining in the area but introducing blocks of broadleaf woodland would help to integrate settlement, whilst future development should be restricted in widely visible areas. The dramatic valley form has distinctive steep wooded slopes and a strong sense of place and is relatively uncommon. It is enclosed by a plateau landscape and has a strong relationship with Cowbridge. The SLA boundary excludes Cowbridge, the suburbs of which are eroding the rural character. The town centre areas of historic and aesthetic value are protected by Conservation Area status.

The valley to the south is a confined, sinuous lowland valley with steep wooded sides and hedgerowed field valley floor with streams and wet ditches contributing to biodiversity. The strong valley, semi-natural and planted broadleaf woodland, and juxtaposition with valley settlements is very attractive and one of the best examples of this landscape in the Vale. Woodland is fragmented in places and linkages should be created by pursuing the Forestry Commission's Woodland Grant Scheme and Native Woodland Plans. Elsewhere the landscape is rolling lowland with some views out to the coast."

47. The site is located in the south-west of the SLA and as such, the southern area of the designation is characterised as having lowland valleys with steep wooded sides and is later referenced as being one of the best examples of this landscape in the Vale in terms of the attractiveness of valley settlements etc. Indeed, it is recognised that the position of the site, within a valley, increases the overall visibility of the marquee from wider views within and adjacent to the SLA.
48. A Development of National Significance (DNS) application has recently been validated by PEDW for a solar farm, application reference DNS CAS-02112-T2N0G8. This application, at the time of writing this report, is still at consultation phase and as yet, a decision is yet to be issued. Dyffryn Springs is located within the site of the proposed solar farm. A Local Visual Impact Assessment (LVIA) has been submitted with the DNS application, which includes views of the marquee within its viewpoints.
49. The following images and LVIA would have been prepared based on an accepted methodology and is a tool used to systematically identify and assess the nature and significance of the effects of a proposed development on the landscape as an environmental resource and on people's views and visual amenity.
50. The LVIA shows that the marquee is visible from a number of public viewpoints within the wider landscape and include a range of images taken from Google Streetview, the officer and also from within the aforementioned LVIA assessment.
51. An unnamed road from the A4226 (Five Mile Lane), adjacent to Northcliff Cottage shows a distant view of the marquee. This is shown in the following image from Google Street taken in March 2023 (marquee is centre of image):



52. The same viewpoint is shown below, in February 2024, taken by a Planning Officer:



53. The following image forms part of the LVIA for the Parc Worlton solar farm:



54. The following image also shows the marquee from footpath W2/3/1, to the south of the application site, in proximity to Old Wallace Farm, taken February 2024 by a Planning Officer:



55. The following images form part of the LVIA submitted for the Parc Worlton solar farm DNS application and have been taken at locations along the same footpath:



56. The following image shows the marquee from a footpath off Highlight Lane, W2/2/1 taken July 2023:



57. The following image has been taken from the LVIA submitted with the Parc Worlton solar farm DNS application and shows the marquee from a rural lane, east of the A4226:



58. It is evident from the images that in particular the white (generally glossy) material for the marquee roof and walls results in a white building that sits in stark contrast within the rolling green landscape and its position within a valley ensures that it is highly visible from both close and distant views as evidenced above.

59. In addition to the visibility during daylight hours, the marquee, when in use, based on the potential for it to be used during shorter daytime hours, is likely to be used in some months or into the evening where there is a requirement for the marquee to be lit. In particular, the marquee is largely glazed along the south-west elevation and the majority of the roof in the event area allows light transmission. This is evidenced in the image below and as such when used at night, the illumination of the building and associated incidental light spill surrounding the building would exacerbate the impacts over and above the aforementioned impacts during the daytime.



Marquee at night – Source <https://dyffrynsprings.co.uk/ourweddingsgallery>

60. Given the light spill and the fact that the roof would be illuminated, the overall impact of the marquee on the landscape is significant, both day and night, noting how visible the structure would be within the landscape. In light of the above images and the defined character of the SLA, it is considered that the marquee, due to its size and in particular its material, would appear as an alien feature that would not be well integrated into or reflect the special qualities of fails to sympathise with the character of the SLA and it detrimentally impacts upon the views both within and towards the wider SLA. As it has not been demonstrated that the development would not cause no unacceptable harm to the important landscape character of the area, it has to be concluded that the development is, contrary to policy MG17 (Special Landscape Areas) of the LDP.
61. During the application stage, the owner of the site was approached regarding the colour of the marquee as it was considered that the white colour of the roof, for the reasons set out above, in particular exacerbates its prominence in the landscape and its visual impact. The owner confirmed that no other colour can be provided and that the white is for practical reasons as it assists with ensuring the marquee reflects the sun and ensures no overheating. Whilst this is noted, it is considered that such justification for this colour does not override the concerns with regards to visual impact.

62. Taking the above into consideration, whilst it is recognised that a marquee has previously received consent, this was on a temporary basis only from 2009 to 2012. In the 2009 application, the officer noted that consent was sought for up to 5 months and for a total of 36 months overall, however this was not allowed and the period was restricted even further, noting that *“given its large size and visible nature such a period would have a sustained impact on an area of attractive landscape and should be resisted.”*
63. The overall character of the area and wider SLA has not been altered since the granting of the previous consent. Given that it was recognised that a marquee being erected for more than 5 months over a period of 36 months would be harmful, a larger marquee in situ on a permanent basis would result in a harmful impact on the SLA and wider countryside on a permanent basis. Whilst it is recognised that a marquee has been in situ without formal consent, a period of lawfulness has not been established and this is not considered as justification for unacceptable development.
64. Therefore, given the high visibility of the marquee, its location within an attractive Dyffryn Basin and Ridge Slopes Special Landscape, the marquee as erected is considered to constitute an alien feature that would not be well integrated into or reflect the important landscape character of the Dyffryn Basin and Ridge Slopes Special Landscape Area and the wider countryside as it detrimentally impacts upon the views both within and towards the wider SLA. The development is therefore contrary to policies MG17 (Special Landscape Areas), criterion 1 of MD1 (Location of New Development, criterion 3 of SP10 (Built and Natural Environment) of The Vale of Glamorgan Adopted Local Development Plan 2011-2026 and paragraph 2.6. TAN12- Design.
65. The proposal would also be at odds with the Tourism and Leisure Development SPG which states in paragraph 5.7.1 that:
- “..... In sensitive coastal and rural locations such as the Glamorgan Heritage Coast and Special Landscape Areas, it is important that developments are well integrated into the landscape”*

Principle of Development

66. The main concerns relating to the development, as set out above are primarily based on the visual impact of the building within its SLA and countryside setting. However, there is no objection, to the principle of a wedding venue at the site, which has clearly been accepted by virtue of the approval of the 2017 and 2018 planning applications for a permanent building in place of a temporary marquee. Whilst the previous permanent consents have now lapsed (2017/00328/FUL on 7 July 2022 and 2018/01232/FUL on 4 January 2024) there is no reason why the owner could not submit a further application for a permanent building on site, which would enable the established business to be retained.

Ecology, Biodiversity and Green Infrastructure

67. Policy MD9 of the LDP (Promoting Biodiversity) requires new development to conserve and where appropriate enhance biodiversity interests and mitigate the impacts of development. This is supported by the Council's SPG on Biodiversity and Development and PPW. It is not known whether the site has any identified biodiversity interest. However, the building has been sited in approximately the same location as the previous structure and as such, is constructed on previously developed land and it is considered that there would not have been any adverse impacts in terms of biodiversity and ecology.
68. Notwithstanding that there is no likely identified direct ecological impact, there has been no opportunity to consider any appropriate biodiversity enhancement measures at the site or indeed Green Infrastructure provision, which is now a requirement of Planning Policy Wales (February 2024). Planning Policy Wales sets out, at paragraph 6.2.12, the need to submit a green infrastructure statement with planning applications. Such a statement should be used to identify that development has a net benefit to biodiversity and green infrastructure in line with the Section 6 duty within the Environment (Wales) Act 2016. It is highlighted in the subtext of Policy MD9 of the LDP that: "it is nearly always possible to provide biodiversity enhancement on development sites. Levels of enhancement should be commensurate with the level of adverse impact and the scale of development."
69. Ordinarily, a proposed development would be conditioned to require either mitigation or measures to improve opportunities for local wildlife, in accordance with PPW and the Environment (Wales) Act 2016. In this case, the Local Planning Authority would have sought appropriate ecological enhancement which may have included the provision of bird and bat boxes at the site as well as the expectation that the development would enhance green infrastructure on site.

Conclusions

70. Whilst it is acknowledged that the site benefits from historic planning approval for the erection of a temporary marquee, this consent was granted on the basis that it would be in place no more than 4 months per year over a 36-month period to mitigate and control its visual impact. Therefore, the installation of a larger, permanent marquee of a similar design, results in an unacceptable, incongruous structure in the countryside, causing a detrimental impact upon the SLA.
71. The white glossy appearance of the marquee coupled with its significantly visible location within the Dyffryn Basin and Ridge Slopes Special Landscape Area is considered detrimental to the surrounding rural character of the area and SLA and countryside. The design and appearance of the marquee presents a stark contrast to other buildings within the rural landscape and detrimentally impacts upon the views both within and towards the wider SLA. The proposal is therefore considered contrary to policies MG17 (Special Landscape Areas), MD1 (Location of New Development, criterion 1) and SP10 (Built and Natural Environment) of The Vale of Glamorgan Adopted Local Development Plan 2011-2026 and TAN12- Design and the advice within the Tourism and Leisure Development SPG.

72. There is no objection to the principle of a wedding venue at the site however, neither of the two previous planning consents for permanent buildings in place of a temporary marquee have been implemented and both have now expired (2017/00328/FUL and 2018/01232/FUL). There is no reason why the owner could not construct a permanent building on the site which would enable the established business to be retained however, in the absence of planning permission for a suitable building, there is no justification for retaining a structure which detracts from the rural landscape and SLA. As the owner has not confirmed that the marquee will be removed, it is therefore considered expedient to pursue enforcement action to require its removal.
73. It is considered that the decision would comply with the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

Resource Implications (Financial and Employment)

74. Any costs involved in drafting and issuing Notices, attending enquiries and undertaking monitoring work can be met within the departmental budget. There are no employment issues.

Legal Implications (to include Human Rights Implications)

75. If an Enforcement Notice is served, the recipient has a right of appeal under Section 174 of the Town and Country Planning Act 1990 (as amended).
76. The Action is founded in law and would not be considered to breach any of the rights referred to in the Human Rights Act.

Equal Opportunities Implications (to include Welsh Language Issues)

77. None.

RECOMMENDATION

- (1) That the Head of Legal Services be authorised to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 (as amended) to require:
- (i) Remove the marquee and its base.
 - (ii) Remove from the land all items and materials resulting from the taking of step (i).
 - (iii) Restore the land to its former condition prior to the development taking place.
- (2) In the event of non-compliance with the Notice, authorisation is also sought to take such legal proceedings as may be required.

Reason for Recommendation

- (1) It appears to the Council that the above breach of planning control constituting operational development consisting of the construction of a marquee, has occurred within the last 4 years.
- (2) The white glossy appearance of the marquee coupled with its significantly visible location within the Dyffryn Basin and Ridge Slopes Special Landscape Area is considered detrimental to the surrounding rural character of the area and SLA and countryside. The design and appearance of the marquee presents a stark contrast to other buildings within the rural landscape and detrimentally impacts upon views both within and towards the wider SLA. The proposal is therefore considered contrary to policies MG17 (Special Landscape Areas), MD1 (Location of New Development, criterion 1) and SP10 (Built and Natural Environment) of The Vale of Glamorgan Adopted Local Development Plan 2011-2026 and TAN12- Design and the advice within the Tourism and Leisure Development SPG.
- (3) Whilst planning permission was previously granted for a marquee on the site in 2009, this was only on the basis that it was restricted to four months for three years and was required to be removed by September 2012 as it was not considered acceptable as a permanent structure. There is no objection to the principle of a wedding venue at the site however, neither of the two previous planning consents for permanent buildings in place of a temporary marquee have been implemented and both have now expired (2017/00328/FUL and 2018/01232/FUL). There is no reason why the owner could not construct a permanent building on the site which would enable the established business to be retained however, in the absence of planning permission for a suitable building, there is no justification for retaining a structure which detracts from the rural landscape and SLA.
- (4) It is considered that the decision complies with the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well Being of Future Generations (Wales) Act 2015.

Background Papers

Enforcement File Ref: ENF/2023/0008/PC

Contact Officer – Sarah Feist, Tel: 01446 704690

Officers Consulted:

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

IAN ROBINSON
HEAD OF SUSTAINABLE DEVELOPMENT