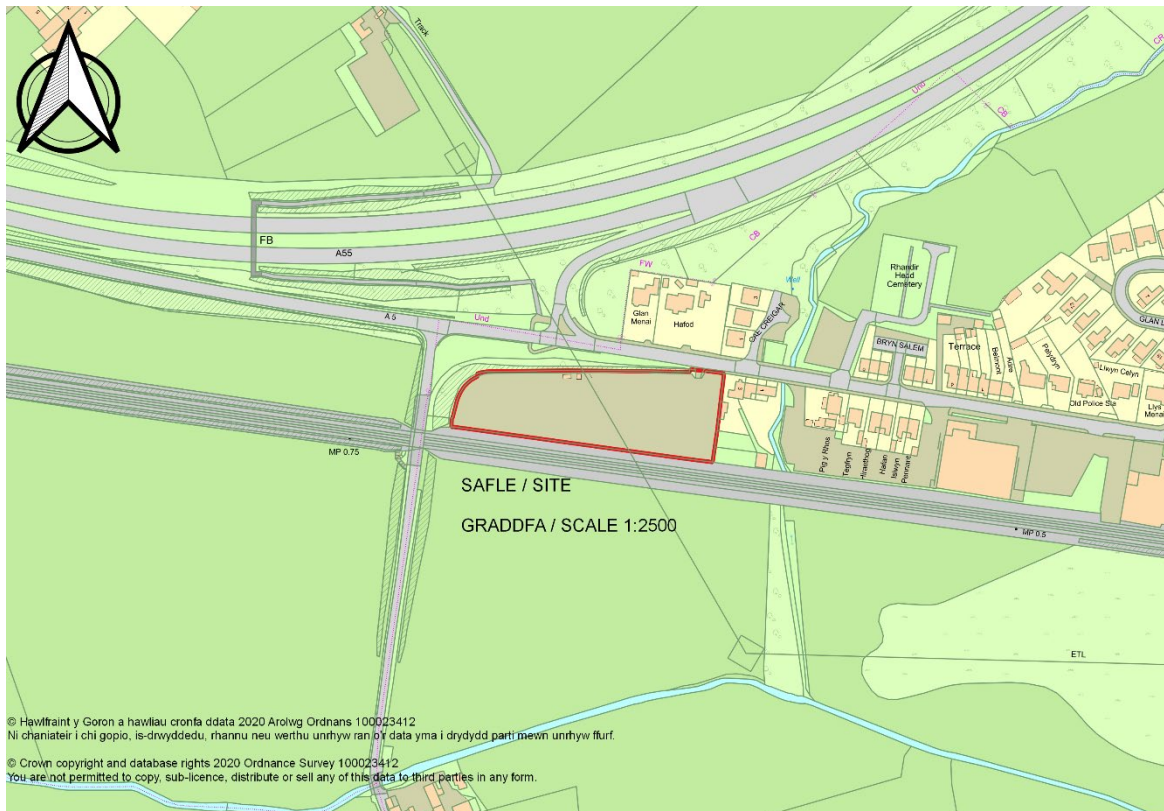


Application Reference: FPL/2020/98

Applicant: Mr. Eric Jones

Description: Retrospective application for the retention of engineering works creating a hard standing surface for agricultural storage use and permitted development use as a carboot site together with the retention of the alterations made to the vehicular access on land at

Site Address: Cae Prytherch, Llanfairpwll



Report of Head of Regulation and Economic Development Service (David Parr-Sturgess)

Recommendation: Refuse and Permit

Reason for Reporting to Committee

The applicant is an elected member. The application has been scrutinised by the Monitoring Officer as required under paragraph 4.6.10.4 of the Constitution.

Proposal and Site

The application is for the retention of the engineering works which created a hard standing surface over the majority of the field for agricultural storage use and permitted development use as a carboot site for 14 days annually together with retention of the alterations made to the vehicular access to the site which includes widening the entrance and erecting a gate and fencing.

Key Issues

The key issues are whether the hard standing surface and alterations to the vehicular access would have a negative impact on the site, the surrounding area or neighbouring residential properties as well as

1. Policy Considerations
2. Planning Site History and recent Planning Enforcement Action
3. Flood Risk

Policies

Joint Local Development Plan

Strategic Policy PS 1: Welsh language and culture
Strategic Policy PS 4: Sustainable Transport, Development and Accessibility
Policy TRA 2: Parking Standards
Policy TRA 4: Managing Transport Impacts
Strategic Policy PS 5: Sustainable Development
Policy PCYFF 1: Development Boundaries
Policy PCYFF 2: Development Criteria
Policy PCYFF 3 Design and Place Shaping
Policy PCYFF 4: Design and Landscaping

Environmental Wales Act (2016)

Technical Advice Note 6: Planning for sustainable rural communities
Technical Advice Note 15: Development and flood risk

Planning Policy Wales (11th Edition)

Building Better Places: Placemaking and the Covid-19 recovery Building (July 2020)

Response to Consultation and Publicity

Consultee	Response
Cynghorydd Alun Wyn Mummery	No observation at the time of writing.
Cynghorydd Meirion Jones	Objection and request the Planning Committee to refuse the application.
Cynghorydd Robin Wyn Williams	No observation at the time of writing.
Cyngor Cymuned Llanfairpwll Community Council	Objection
Prifffyrdd a Trafnidiaeth / Highways and Transportation	Recommend conditional approval in respect of alterations made to the vehicular access to the site together with a recommendation that a Traffic Management Plan be submitted and approved to demonstrate that the site can function effectively as a car boot sale site without causing traffic delays and congestion on the highway.
Iechyd yr Amgylchedd / Environmental Health	No objection, standard comments presented in respect of the Health and Safety at work etc Act 1974.

Ymgynghorydd Ecolegol ac Amgylcheddol / Ecological and Environmental Advisor	No objection, comments provided with respect to recommendations and suggested conditions should the proposal be approved.
Ymgynghorydd Tirwedd / Landscape Advisor	No observation at the time of writing.
Cyfoeth Naturiol Cymru / Natural Resources Wales	Generally satisfied with the submitted Flood Consequence Assessment for the retention of the agricultural use. Suggested conditions, advisories and recommendations should the Local Planning Authority be minded to approve the hardstanding.
Llywodraeth Cymru (Priffyrdd/Highways)	Directs that any permission granted by the authority shall include a condition to maintain the safety and free flow of trunk road traffic.
Ymgynghoriadau Cynllunio YGC	It is possible that an application to the Sustainable Drainage Approving Body (SAB) for approval will be needed.
Network Rail	Comments with respect to boundary fencing alongside network rail assets and confirmation required that the existing culvert is sufficient.
National Grid Plant Protection Team	No objection, comments made with respect to storage of hay bales underneath power lines.
Uned Polisi Cynllunio ar y Cyd / Joint Planning Policy Unit	Planning policy considerations listed.

The proposal has been advertised through the posting of a notice on site together with the distribution of personal letters of notification to the occupiers of neighbouring properties. The latest date for the receipt of any representation was the 11/02/2021. At the time of writing this report, 7 letters of representation had been received at the department.

7 Letters of objection had the following concerns:

- The vehicular access has been altered without planning permission.
- The land has been changed from agricultural to a hard surface without planning permission.
- When the site is used for carboot sales it increases traffic and causes problems along the A5 road.
- The increase in traffic is causing traffic problems for the A55 slip road a short distance up the road from the site.
- The owner of the site is breaking planning rules and at the time is part of the Planning Committee.
- We believe we should have received neighbour notification letters as part of the publicity of this application.
- How has the owner been allowed to submit a planning application when the owner has received a notice to return the site to its previous condition?
- A site notice was placed very high on a telegraph pole so that it was unreadable.
- The works carried out on site are not suitable for the site and is outside the development boundary of the village.
- The approval of this application would raise questions about transparency that an elected member has an opportunity to use his position through the planning process.
- The site is not suitable as a carboot as the vehicular access is onto a very busy road.
- The Co-Op supermarket exit is dangerous and is within close proximity to the application site access.
- The sites appearance is now an eye sore because of the works carried out on site.
- 6 car accidents have occurred on the A5 road within the last year.
- This is not a suitable location for a carboot site.

- It is too close to residential properties.
- The road is already too busy and this development would certainly lead to on-road parking which will cause further issues.
- Additionally the noise and disruption would be unfair to neighbours.

Relevant Planning History

No planning history

Main Planning Considerations

Enforcement investigation and site history

A complaint was received regarding the alterations made at the application site to the existing vehicular access together with the removal of top soil off the field and the construction of a hard surface by bringing to site stone/hard core aggregate material.

An enforcement investigation was opened and the site was visited on the 02/08/2019. It was found that the existing vehicular access had been widened, the removal of top soil off the field with the soil being used to construct soil bunds along three boundaries of the site together with the laying of a hard surface on the majority of the field by bringing to site stone/hard core aggregate material.

During the site visit the owner of the land stated that the works were being carried out for the site to be used for agricultural storage of hay bales and trailers. The owner stated that the soil bunds had been constructed using the top soil off the land and that the aggregate material had been bought from 'Anglesey Aggregate'. This aggregate material was brought to site using trucks and spread over the land using diggers and rollers to construct the new hard surface.

The works carried out on site did and still do not benefit from any permitted development rights under the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

As part of the investigation the owner confirmed that he did not own any other land in close vicinity to the site and the reason for the engineering works was to use the site as agricultural storage for machinery and hay bales.

The site was visited again on the 09/12/2019 after a complaint was received regarding the erection of gate and fencing at the vehicular access to the site. The owner had erected metal fencing on the steel posts close the vehicular access to the site and had sited portable toilets and portable floodlights on the site

Based on the enforcement site visits, information provided by the owner and taking into account local and national planning policies the council did not believe that planning permission should be given and a Planning Enforcement Notice was issued on the owner and site dated 23/12/2019.

The Planning Enforcement Notice reference PL-22351-RWJ Section 4. 'Reasons for issuing this notice' states:

The Land extends to about 0.67 hectares and the land owner owns no other agricultural land in the vicinity. As such, the Land does not benefit from any permitted development rights under the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

The justification to construct a hard surface over all the site for the proposed use for the agricultural storage of hay bales and agricultural machinery is considered an unsustainable use of the Land because the site is not located within close proximity to any other land owned by the owner and the distances needed to travel by road to collect and store machinery/hay bales are considered unreasonably far to travel.

The development does not complement or enhance the character and appearance of the site or the surrounding area. There is no longer any greenfield land on site with the existing character and appearance has changed drastically from 0.67 hectares of greenfield land into a hard surface covering the whole site.

The scale of the development is excessive for its intended use for storage of hay bales and machinery.

The works and uses identified at paragraph 3 above thus amount to breaches of planning control and are considered to be contrary to Policies PCYFF3 and PCYFF4 of the Anglesey and Gwynedd Joint Local Development Plan (2017), and contrary to advice within TAN6, TAN15 and Planning Policy Wales (11th Edition).

The Council does not believe that planning permission should be given because planning conditions could not overcome these objections.

The Planning Enforcement Notice Section 5. 'What you are required to do' states:

- (i) To cease the use of the Land for storage and to remove from the Land all portacabins, portable floodlights and portable toilets stored there;*
- (ii) To dig-up the hardcore on the Land and then remove the dug-up material from the Land;*
- (iii) To demolish the soil bunds on the Land and to reinstate the topsoil by spreading it on the Land either evenly or to the same levels as it was before it was stripped to form the bunds; and*
- (iv) To restore the Land to its former condition by reseedling the relaid topsoil.*

The time for compliance was within three calendar months following the date the notice takes effect with the notice taking effect on the 17/02/2020 unless an appeal is made against it beforehand.

An Enforcement Notice Appeal was received by The Planning Inspectorate and the enforcement appeal reference APP/L6805/C/20/3246985 began on the 10/03/2020. The Grounds of Appeal were pursued on ground (g) 'The time given to comply with the notice is too short.'

The applicant did not contest any other element of the Planning Enforcement Appeal.

The Planning Inspectorates Appeal Decision dated 26/05/2020 stated:

The appeal is allowed under ground (g). I direct that the EN varied by substituting 'three calendar months' for 'six calendar months' as the time for compliance set out in section 6 of the EN. Subject to this variation, the EN is upheld.

Policy considerations

Having regard to the development plan and other material planning considerations I consider the following to be the main planning considerations for planning permission reference FPL/2020/98:

Planning Policy Wales (11th Edition) –

Paragraph 1.17 of the Planning Policy Wales (PPW 11th edition) states that:

1.17. Legislation secures a presumption in favour of sustainable development in accordance with the development plan unless material considerations indicate otherwise to ensure that social, economic, cultural and environmental issues are balanced and integrated.'

Paragraph 2.2 and 2.3 of the Planning Policy Wales (PPW 11th edition) states that:

2.2 Sustainable Places are the goal of the land use planning system in Wales; they are the output of the planning system rather than the process of achieving them. All development decisions, either through development plans policy choices or individual development management decisions should seek to contribute towards the making of sustainable places and improved well-being.

2.3 The planning system should create sustainable places which are attractive, sociable, accessible, active, secure, welcoming, healthy and friendly. Development proposals should create the conditions to bring people together, making them want to live, work and play in areas with a sense of place and well-being, creating prosperity for all.

The national Planning Policy guidelines recognises the importance of sustainability with development having a beneficial impact on the site, the surrounding area and the people who live and work in the area. The retention of the hard surface at the application site for use as agricultural storage and use as carboot site for 14 days of the calendar year under permitted development rights is considered unsustainable and would have a negative impact on the existing site, surrounding area and to those who live near and within the village of Llanfairpwll.

Technical Advice Note 6: Planning for sustainable rural communities –

Paragraph 2.1.1 of TAN6 states that:

2.1.1 The overall goal for the planning system is to support living and working rural communities in order that they are economically, socially and environmentally sustainable.

Paragraph 6.1.1 of TAN 6 states that:

6.1.1 The Welsh Assembly Government's objective is a sustainable and profitable future for farming families and businesses through the production and processing of farm products while safeguarding the environment, animal health and welfare, adapting to climate change and mitigating its impacts, while contributing to the vitality and prosperity of our rural communities. The planning system can play an important part in supporting the future sustainability of agriculture.

The Welsh Governments Technical Advice Note 6 recognises the importance of Planning for Sustainable Rural Communities and how development and use of land should be economically, socially and environmentally sustainable and contributing to the vitality of our rural communities. The owner has confirmed the application site is not within close vicinity to any other land within his ownership and that the use of hard surface on the application site will be mixed use as agricultural storage and as a carboot site for 14 days of the calendar year under permitted development rights. The retention of the hard surface for the mixed uses is an unsustainable use of application site with the distances needed to travel to store agricultural items/machinery/hay bales being economically, socially and environmentally unsustainable.

Technical Advice Note 15: Development and flood risk –

Paragraphs 6.2 of the TAN 15 states that:

6.2 New development should be directed away from zone C and towards suitable land in zone A, otherwise to zone B, where river or coastal flooding will be less of an issue. In zone C the tests outlined in sections 6 and 7 will be applied, recognising, however, that highly vulnerable development and Emergency Services in zone C2 should not be permitted. All other new development should only be permitted within zones C1 and C2 if determined by the planning authority to be justified in that location. Development, including transport infrastructure, will only be justified if it can be demonstrated that:-

i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement¹; or,

ii Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;

and,

iii It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,

iv The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.

Consultations responses from Natural Resources Wales have not objected to the retention of the hard surface and concluded that the Flood Consequence Assessment (FCA) of the hard surface does not introduce an increased risk of flooding on the site or to any of the surrounding area. NRW have stated that:

'Section 6 of TAN15 requires the Local Planning Authority to determine whether the development at this location is justified. Therefore, we refer you to the tests set out in section 6.2 of TAN15. If you consider the proposal meets the tests set out in criteria (i) to (iii), then the final test (iv) is for the applicant to demonstrate through the submission of an FCA that the potential consequences of flooding can be managed to an acceptable level.'

Consultation response from the IOACC Drainage Advisors have not objected to the work and states:

'As the proposed development is partly situated within a C2 flood zone we shall allow NRW to comment upon the content of the Flood Consequence Assessment submitted with the application. Due to the size and nature of the development it is possible that an application to the SAB for approval will be needed prior to the commencement of the building work. - No further comments to add to the full application.'

Based on the FCA and other supporting information received as part of the application together with the consultations received regarding the hard surface it is my opinion that the hard surface is reasonable in preventing flooding of the existing site or neighbouring dwellings.

Joint Local Development Plan

Policies PCYFF2, PCYFF 3 and PCYFF 4 are the main planning policies when considering this planning application.

PCYFF 2 - Development Criteria states:

'The health, safety or amenity of occupiers of local residences, other land and property uses or characteristics of the locality due to increased activity, disturbance, vibration, noise, dust, fumes, litter, drainage, light pollution, or other forms of pollution or nuisance;' Criteria 7.

PCYFF 3 - Design and Place Shaping states:

All proposals will be expected to demonstrate high quality design which fully takes into account the natural, historic and built environmental context and contributes to the creation of attractive, sustainable places. Innovative and energy efficient design will be particularly encouraged.

Proposal, including extensions and alterations to existing buildings and structures will only be permitted provided they conform to all of the following criteria, where relevant:

1. It complements and enhances the character and appearance of the site, building or area in terms of siting, appearance, scale, height, massing and elevation treatment;

PCYFF 4 - Design and Landscaping states:

All proposals should integrate into their surroundings. Proposals that fail to show (in a manner appropriate to the nature, scale and location of the proposed development) how landscaping has been considered from the outset as part of the design proposal will be refused.

The retention of the engineering works to create a hard surface to be used for agricultural storage

The existing site was previously agricultural greenfield land measuring 0.67 hectares in area, used for grazing but is now covered in hard surface and is therefore no longer suitable for animals to graze or to be kept for any length of time.

The applicant has confirmed that he does not own any other land in close vicinity to the site and that the agricultural use of the hard surface would be for mixed use agricultural storage and carboot site for 14 days of the year permitted under general permitted development rights. The application and supporting information provided does not confirm what agricultural items/machinery/hay bales will be stored on the land but the owner has confirmed he does not own any other land in close vicinity to the application site with the owner having to travel a long distance by road to store these items/machinery/hay bales.

The justification given by the applicant for the agricultural storage use of the hard surface is contrary to Policy PCYFF 3 as it is an unsustainable use of land with the distances needed to travel to store agricultural items/machinery/hay bales which are required on farms on a daily basis. The hard surface does not enhance the character or appearance of the site and the scale of the development covering the whole site in a hard surface is excessive for its intended uses.

There is a degree of screening along the Northern and Western boundaries of the site by way of established hedgerows and vegetation but the site can still be seen from the two roads and footways running adjacent to the site. The justification given by the applicant for the agricultural storage use of the hard surface is contrary to Policy PCYFF 4 as the hard surface does not integrate into the surrounding area. The hard surface is clearly at odds with the general character of the area which is identified as enclosed grazing land extending into open countryside and the existing screening is not sufficient to mitigate the visual impact of the development.

The retention of the engineering works to create a hard surface to be used as a carboot site for 14 days of a calendar year under general permitted development rights

As previously stated above the existing site was formerly agricultural grazing land measuring 0.67 hectares in area, which is now covered in aggregate. The site has general permitted developments rights to be used as a carboot sale ground for up to 14 days in a calendar year under the Town and Country Planning (General Permitted Development) Order 1995 (as amended) irrespective of the surfacing material across the site.

The planning support statement states:

5.1 The application seeks to retrospectively regularise engineering works which were carried out to support an existing use of the site for agricultural storage and for the use of the land under permitted development rights as a car boot sale ground.

While the use of the site as a carboot site is permitted for 14 days in a calendar year under general permitted developments rights the justification for the retention of the engineering works to create the hard surface to facilitate its use as a carboot site for only 14 days in a calendar year is considered unreasonable and contrary to Policies PCYFF2, PCYFF 3 and PCYFF 4.

The retention of the hard surface for use as a carboot site for 14 days is unsustainable with the site not being used as a carboot site for large parts of the year. The hard surface does not enhance the character or appearance of the site and the scale of the development, given the fact that it extends to cover the whole site, is excessive for its intended uses.

The retention of the alterations made to the vehicular access to the site

The alterations made to the existing access have widened the entrance to 7.7 metres, erected 2.5 metre high fences, erected 2.5 metre high entrance gate with the new gate set 3.5 metres from the existing pavement.

The IOACC Highways Authority were consulted on the application and did not object to the alterations made to the vehicular access and recommended conditions be put in place if the application were to be granted. The Highways Authority consultation states:

With regard to the access area between the gate and the highway, this needs to be properly surfaced.

If you are minded to grant permission, it is recommended that a suitable condition is attached to require the access area between the gate and the highway to be hard paved with concrete or asphalt in order to prevent loose material being brought out into the highway.

...it is recommended that the widened footway crossing area ... should also be concreted to match the remainder of the existing footway crossing. The landowner would need consent from the highway authority under S184/171 in order to carry out the footway crossing work.

The Welsh Governments Department for Economy and Infrastructure (WG) consulted on the application and requested additional information. Additional information was provided by the applicant and the WG had no objection to the vehicular access and advised that the amended drawings should be conditioned to confirm the site access remains at 7.7 metres wide.

The alterations made to the vehicular access through the increase in width of the entrance and setting the gate back further from the road improves accessibility and safety entering and leaving the site. With no objection from the IOACC Highways Authority and the Welsh Governments Department for Economy and Infrastructure, the retention of the alterations to the vehicular access are considered reasonable and comply with local and national planning policies.

Conclusion

On balance, it is considered that the proposed retention of the hard surface conflicts with the aforementioned planning policies. It is considered that the hard surface impacts adversely upon the character of the landscape in this open countryside location, is unsustainable and is an over development of the site. It is not considered that suitable conditions can be imposed to ensure its acceptability in land use planning terms.

On the matter of the alterations carried out to the vehicular access to the site, following consultation with the authority's Highways Department and the Welsh Government's Department for Economy and Infrastructure, the retention of the alterations are considered acceptable subject to conditions and are in compliance with both local and national planning policies.

The decision considers the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of

Future Generations (Wales) Act 2015 (the WBFG Act). The decision takes into account the ways of working set out at section 5 of the WBFG Act and it is considered that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

Split decision

Approve

The retention of the alterations made to the vehicular access to the site – The alterations made to the vehicular access are considered reasonable and comply with local and national planning policies.

Refuse

The retention of the engineering works to create a hard surface The retention of the hard surface for is considered unsustainable, does not enhance the character or appearance of the site, does not integrate into its surroundings and is an excessive overdevelopment of the site

Recommendation

Split Decision

Approve

The retention of the alterations made to the vehicular access to the site

(01) The alterations to the vehicular access hereby permitted shall be carried out in strict conformity with the details shown on the plans below, contained in the form of application and in any other documents accompanying such application unless included within any provision of the conditions of this planning permission.

- **Location Plan – No. 003120.CCE.V1.XX.40:40:01.50:30.0001.S1.02 – Dated 12/05/2020**
- **Access General Arrangement - No. 003120.CCE.V1.XX.40:40:01.C.50:30.0009.S1.P02 – Dated 12/05/2020**
- **Site Boundary Fence Details – 03120.CCE.V1.XX.40:40:01.C.80.0001.S1.01 – Dated 07/08/2020**

Reason: To ensure that the vehicular access is implemented in accord with the approved details.

(02) Within one year from the date of this decision notice the vehicular access area between the gate and the highway shall be paved with concrete or asphalt.

Reason: In order to prevent loose material being brought out into the highway.

(03) The width of the site access shall be retained at 7.7 metres in width in full accordance with the details as shown on the attached plan Access General Arrangement - No. 003120.CCE.V1.XX.40:40:01.C.50:30.0009.S1.P02 – Dated 12/05/2020 and shall be retained as such for the lifetime of the development hereby approved.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the access.

In addition the Head of Service be authorised to add to, remove or amend/vary any condition(s) before the issuing of the planning permission, providing that such changes do not affect the nature or go to the heart of the permission/development.

Refuse

The retention of the engineering works to create a hard surface

(01)The Local Planning Authority considers the retention of engineering works to create a hard surface over the site is unsustainable, does not enhance the character or appearance of the site, does not integrate into its surroundings, is an excessive overdevelopment of the site and is therefore contrary to the requirements of Policy PCYFF2, PCYFF3 and PCYFF4 of the Joint Local Development Plan and the advice contained within the Planning Policy Wales (Edition 11).