

Philip Griffiths – Architect.

D.P. Griffiths, B.Arch., Hons 1. (Wales), RIBA.
Chartered Architect & Project Manager.

3 Saint Johns Close, Cefn Coed,
Merthyr Tydfil, Mid Glam. CF48 2PE

Website – www.philipgriffiths.co.uk
E Mail – Philip@philipgriffiths.co.uk

Telephone – 01685 370812
Mobile – 07903 306936

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Mr. Huw Roberts,
Planning Group Leader,
Planning & Neighbourhood Services,
Unit 5,
Triangle Business Park,
Pentrebach,
Merthyr Tydfil. CF48 4TQ.

Dear Mr. Roberts,

Re: A465 Heads of the Valley Dualling Scheme.

Land to the rear of Cilsanws House and Buckland House, High Street, Cefn Coed, Merthyr Tydfil.
Planning Application - P/11/0239. Planning Appeal - No APP/U6925/A/13/2195497

Application For Certificate of Appropriate Alternative Development (CAAD).

We submit the application for a CAAD also known as a Section 17 Certificate under the provisions of the Land Compensation Act 1961, Section 17 (as substantiated by Section 63 of the Planning and Compensation Act 1991).

The purpose is to establish whether planning permission for development might reasonably have been expected to be granted on the vested date (the date that the land legally transfers to the acquiring authority) or at some later date if the land were not proposed to be compulsory acquired. The certificate or an agreement that there is an Appropriate Alternative Development (AAD) removes any question mark over planning risk as the value of land compulsory acquired can be assessed as if planning permission for the AAD had been granted. The land is acquired under a temporary licence.

The application will examine if on some **past** date the land should have been in receipt of a planning consent for the construction of a four-bedroom house and architects' studio. A previously refused consent having failed to meet vision splay standards of highway safety deemed applicable at the time of application. The development having been the subject of two successful lapsed planning approvals and two unsuccessful planning applications and one refusal of planning appeal.

The application will also examine if on some **future** date the land would be granted planning consent when re-evaluated against the reduced vision splay standards currently deemed highway safe by the Welsh Assembly (WA) in their current use of the land as a diversionary loop road carrying Upper Vaynor Road to its connection to the A4054 also known as Upper High Street. The road is part of the B road from Cefn Coed to Talybont on Usk.

Future Traffic Reduction.

Completion of the A465 dualling will result in the closure of the Lower Vaynor Road and Grawen Lane access roads from the A4054 onto the A465 which will greatly reduce traffic. Grawen Lane which is almost directly opposite the site is the relevant road and will remain open but revert from a major trunk road junction to a lane junction serving 20 dwellings.

At the time of the original planning consents the road adjacent to the site acted as the A470 (T) Cardiff to Llangurig trunk road carrying a greater volume of traffic. The road is now down-graded to the A4054.

The four-way crossroad at the Tabor Chapel junction ten metres to the south of the site will remain but operating as a three-road junction with Grawen Lane which is currently acting as an access road to the A465 is downgraded to only serve the twenty houses or so along Grawen lane. Future traffic needing to access the A470 and the A465 will travel north to the Danydarren junction or south to Swansea Road via Cyfarthfa to access the A470 before returning to link with the A465.

Traffic past the site will also greatly reduce with the new designated access road from the A465 to Prince Charles Hospital (PCH). Most traffic heading to PCH from the north, west and east currently passes the site.

Devaluation of the Land.

The CAAD application will need to examine the devaluation of the land incurred by the road works that have reduced the land by seven metres in height, destroying its original formation and topography making re-instatement for building without piling or other expensive foundations problematic.

The grounds for holding that opinion are:

The land subject to the Notice to Treat has a development value that exceeds its value in its existing use. The land is devalued by the refusal of planning application P/11/0239 which if consented would have established its true value. The site was left undeveloped awaiting the proposed widening of the A465 road and thus has been the subject of planning blight.

If the acquiring authority's scheme was to be cancelled or did not exist, there is a reasonable expectation that planning permission would be granted for housing by a reasonable planning authority unfettered in decision making by pending road works. Aside from that counterfactual, scheme cancellation assumption, the CAAD application is submitted on the presumption that there is present and future prospects of planning permission being granted for development of the land when measured against relevant facts and circumstances that are shown to have been market knowledge at the relevant valuation date.

At paragraph 274 of the MHCLG guidance. Local planning authorities are reminded that an application made under section 17 of 1961 act is not a planning application and then further advised to seek to come to a view based on its assessment in making innovation of the policy context applicable at the relevant valuation date on the assumption that such a development would or should have been acceptable to the authority.

The application is made for a certificate that, in the local planning authorities' opinion, there is development that is appropriate alternative development within the meaning of the Act in relation to the acquisition- a positive certificate.

Should the LPA not support the CAAD application the documentation will be submitted for resolution by the Upper Tribunal to discharge its appellate function and determine what a reasonable local planning authority would have decided in the circumstances.

Historical Grounds that support the CAAD.

The CAAD re-examines the original planning application and appeal refused due to inadequate vision splays deemed to create a danger to highway safety when carrying de-minimis volumes of traffic generated by one additional dwelling on an existing driveway already serving two houses.

However, when measured against the vision splays deployed in the current diversionary two-lane road looped through the site as enabling works for the construction of the A465 Heads of the Valley Road the junction and vision splays now carry a vastly increased and non-comparable volume of traffic from Upper Vaynor Road onto the A4054 through the same junction which is no longer judged to create a danger to highway safety.

The CAAD identifies some incorrect assumptions made by both the LPA in the initial determination of Planning Application P/11/0239 and the planning inspector in the determination of Planning Appeal - No APP/U6925/A/13/219549, deemed by the applicant to have wrongly influenced the determination.

The CAAD will examine if the information withheld or redacted by the LPA was a reasonable or unreasonable factor in the determination of the application.

The CAAD questions if the vision splays and highway safety standards currently adopted by Welsh Government (WG) the acquiring authority render the original LPA standards on vision splays and highway safety to be disproportionate and overly zealous.

The CAAD will thus examine if the refusal of consent was reasonable, notwithstanding that the land is subject to two extant but expired planning consents.

Vision Splays.

In the original planning application, the existing vision splay of 2.4m x 8.35 m south was deemed a traffic hazard incapable of carrying four additional car journeys per day from a new dwelling to an existing driveway already serving two houses which created say eight car journeys per day, increasing to a total of 12 car journeys per day exiting the driveway.

The statutory vision splay required by the LPA being 2.4m x 40 m at 30 mph which is relevant to a road junction to road junction requirement. The Local Planning Authority (LPA) had not considered the function of the traffic movement within the context of place – which is a driveway to road junction.

The WA diversionary loop road is moved 2m north of the driveway access and has vision splays on 2.4 m x 19.2 m well below the 40 m Y distance previously deemed necessary but are currently not deemed to create a traffic hazard for the 6000 vehicles per day now using the same junction.

Note: The diversionary system currently operates as a loop with no traffic converging from the south along the A4054. The loop originally operated for some 12 weeks with traffic converging from the south along the A4054 in which the junction acted as a T junction – thus setting the principle of use deemed acceptable.

Since December 2023 the diversionary system operates with traffic converging from the south over the new High Street bridge.

Explanatory Notes on the 1998 Traffic Census set aside by the LPA and the Planning Inspectorate.

The 1998 Traffic Census was undertaken by the Vaynor Community Forum under the direction of Mr W.J. Watkins BSc, a retired Headmaster and Geography graduate to compile information for presentation to the Public Enquiry on the Dualling of the A465 Heads of the Valley Road. With specific reference to the proposed closure of the Grawen Lane and Lower Vaynor Road access roads onto the Heads of the Valley Road, and the effect on longer journey times and increased fuel costs upon the population of Vaynor.

The manual traffic count was undertaken during the three-hour peak periods of morning and evening traffic flows at all exits, entrances, and major road junctions into and within the village with each census point doubly manned. The 1998 figures record a very accurate representation of traffic flows in and around the village and although outdated the figures are readily made current by interpolation with the attached *Index of Rolling Annual Traffic Totals, Provisional Road estimates, GB April 2021 to March 2022 – Gov.uk.* which shows a 20% increase in traffic between 1994 and 2022. Thus adding 20% to the 1998 survey results obtains revised traffic flow figures for comparison purposes. The figures are slightly exaggerated by 4 years being the period from 1994 to 1998 the year of the traffic census and would in fact be below a 20% increase.

The diagrams titled *Traffic Flows, Cefn Coed y Cymmer, Tuesday 31st March 1998: Morning and Evening* show morning traffic at the Upper Vaynor Road junction with the A4054 of 974 vehicles which when updated by 20% to 2022 traffic flows increases to 1168 vehicles. Evening traffic of 1526

vehicles when updated by 20% increases to 1831 vehicles. Thus, the morning and evening figures combine to a total of 2999 say 3000 vehicles over the six-hours of morning and evening peak traffic flows.

Peak traffic flows are shown by national survey to represent approx. 40% of daily traffic over a 24-hour period. Thus, to obtain a 24-hr traffic flow the current peak traffic flow of 40% or 3000 vehicles need to be increased by 60% or 4500 vehicles to obtain the 2022 daily traffic flows of 7500 vehicles potentially using the diversionary loop road. This 40 / 60 percentage split is based on inner city locations and a reduced percentage could be seen to be more applicable to the village location.

Further mitigation is needed as some vehicles from Trefechan currently use a northern route over the narrow Glais Bridge, while Pontsticill traffic exit the village via Pant Road both routes linking with the trunk road network at Pant / Dowlais. We have thus conservatively reduced the figure for traffic using the diversionary loop road by 20% from 7500 to 6000 vehicles per day to factor in both the northern exit routes used during construction work and the village location compared to inner city location.

Conclusions arrived at from the Traffic Census figures.

The southern 2.4 x 8.5 m vision splay of the original planning application did not meet the 2.4m x 40m requirement set by the LPA and was thus considered to create a highway safety hazard despite only creating a de-minimis four additional car journeys per day from an existing driveway already serving two houses creating eight car journeys per day.

Note the traffic volume using Upper High Street in 1998 was only 1396 vehicles per day as the main traffic volumes turned south into Merthyr town or west to pick up the A465 heading for Abergavenny. Very limited traffic turned north past the application site in the direction of Brecon.

The current vision splay south on the Welsh Assembly diversionary loop road is 2.4 m x 19.2 m which is half of the 2.4 x 40m vision splay previously required by the LA.

In summary this reduced vision splay now carries 6000 vehicles per day, representing a 1500 % increase in traffic volume which is not deemed to create a highway safety hazard.

The primary or important loop vision splay is the north splay facing oncoming traffic which is 2.4m x 29.3m some 25% below the 2.4m x 40 m LPA standard. See drawing 07. The vision splay north in the original planning application was 2.4 x 42m.

Non comparable standards in the determination of the application.

The original decision by the LPA to implement vision splays of 2.4 x 40m was presumably taken in the interests of highway safety and in compliance with vision splays standards listed in the Design Manual for Roads and Bridges (DMRB).

It should not normally be possible to vary or implement any change in standards to the system without prior notice, consultation, and valid safety reasons for doing so. Uniformity under differing conditions may of course vary, but the aim of uniformity in this instance is the maintenance of highway safety standards. However, the huge disparity in standards suggests that either the current Welsh Assembly standard is set too low, or the original LPA standard is set too high.

The relationship between **four** additional vehicle journeys and **six thousand** vehicle journeys per day through a slightly widened and re-aligned junction is data that cannot be readily compared. The numerical difference in traffic volumes are not similar enough to make a comparative judgement.

The case officer in the original planning application set aside the Welsh Assembly (WA) decision to offer no objection to the development, judging that the WA decision did not consider 'the finer detail'. The finer detail of 4 to 6000 vehicles is now seen to be so hugely disproportionate as to question the reality of the original LPA standards such a disparity making a mockery of the original decision.

Current Thinking on Variable Standards of Vision Splays for a Private Drive to Road Junction.

In refusing planning permission on the grounds that the vision splays did not comply with the 2.4 x 40m requirement, the LPA did not give due consideration to the vehicular access of the application site being a private driveway or cul de sac already linking two dwellings then increased to three by the application dwelling, it remains a driveway to road junction and not a road-to-road junction.

The close proximity of the driveway access to the four-road junction of the A4054 (originally the A470(T) with Upper Vaynor Road and the Grawen Lane access road to the A465 Heads of the Valley Road was often cited by the LPA as a planning issue and is seen to unduly influence the decision. We have searched but never found any planning guidance on the distance of driveways from road junctions.

Although never stated the LPA would presumably have been mindful not to constrain or limit future proposals for the widening of the A465 by issuing a planning consent. Had permission been granted and the house and studio development been built then the current diversionary road loop would have required either the demolition of Cilsanws and Buckland Houses or the application house and studio with presumably the payment of considerable compensation to the applicant on a property whose current estimated value would be more than half a million pounds.

In failing to consider the limited traffic movements from a three-house private driveway or cul de sac, to a main road the LPA failed to consider a reduction in vision splays as adopted by many local authorities who while they continue to maintain the uniformity of highway safety are also mindful to consider varying local conditions.

To illustrate the use of such relaxed standards supported by traffic management measures we attach the section on Visibility from the Bristol Transport Development Management Guide, dated October 2022.

The guide informs that 'Unimpeded visibility splays are necessary to ensure that all road users have a clear view of approaching or on-coming traffic, so highway safety is maintained. If visibility is obscured, this can result in unsafe manoeuvres which are likely to lead to conflict and unsafe conditions.'

The guide explains how minimum visibility distances are based on safe stopping distances which is the distance drivers need to be able to see ahead to be able to stop at a given speed. The relevant speeds are the 85th percentile speeds measured on the existing road.

The guide notes the DMRB (Design Manual for Roads and Bridges) visibility distances apply to roads which do not possess the characteristics of a 'street', i.e., where the movement function outweighs the place function. While the other minimum visibility distances shown in Table 1 refer of course to street-to-street situations.

In the planning application, the place function outweighs the movement function which at four additional car journeys per day is de-minimis, as the place function is an existing private driveway to road and not a road-to-road junction carrying minimal traffic.

Horizontal visibility is taken in two directions: The X distance is the distance set back from the edge of the major arm where the driver would be located whilst waiting to leave the minor arm. Measured from the edge of carriageway on the major arm into the minor arm along the centre line of the minor arm

Generally, within Merthyr's constrained network an X distance of 2.4m is adequate for most junctions. An absolute minimum of 2m can be considered at lightly used accesses, such as private driveways and in lightly trafficked and slow speed situations as existed at the site. The Y distance is the direction that motorists can see any approaching traffic on exiting the minor arm. It is measured along the nearest edge of the carriageway of the major arm of the junction.

Fig 1: Visibility splays on a straight road, show how possible features preventing vehicles from crossing the centre line such as a small traffic island or double white lines can reduce the required Y distance.

The traffic approaching the junction needs a clear view of traffic waiting to exit the junction and vice versa. Thus, the northerly direction is the principal highway safety requirement and had a vision splay of 2.4 x 42m.

The vision splay south sights northly bound traffic approaching in the off lane is 2.4 x 8.35m below the 40m Y distance. However, stationary traffic exiting the development junction is clearly visible to all north bound traffic travelling in the off lane.

As of December 2023, the pavement kerb line to the south has seemingly been widened and the junction of Upper Vaynor Road and the Upper High Street brought forward which should improve vision splays. The works are behind security fences and cannot currently be surveyed and evaluated,

With enhanced traffic measures the limited southern vision splay could have been made acceptable as shown in the following drawings:

Drawing 02.

With the X distance reduced to 2 m, a 20 m Y distance is possible.

Drawing 02A.

The A470 is 8.75m wide which is equivalent to three lanes of 2.910 m in width. The wide road width is a vestige of the tramcar era.

Drawing 05 & 06.

The only highway danger is to traffic exiting the site colliding with north bound traffic overtaking in the wrong middle or third outside lane. The introduction of double white lines or wide chevroned double white lines or a small traffic island would eliminate this danger, all are standard highway procedures.

Drawings 05 and 06 also illustrate the creation of a safe exit zone in a two carriageway or three carriageway situation.

Drawing 03.

In narrowing the A4054 from 8.75 to 7.35m allows the creation of 1.8m wide pavements on either side of the road and allows the formation of a 2.4 x 20 m vision splay – still below LPA requirements.

The concerns expressed by the planning Inspector Mr. J. Davies that the narrowing of the road creates a kink which would be a danger to motorists shows little understanding of highway design and standard traffic calming measures and must be set aside. Similar road narrowing is illustrated in attached photographs P1, P2 & P3 having been constructed by the local highway authority along the A4054 to form roadside car parking, and better traffic approach to bridges etc. along the A4054.

Drawing 04.

The A4054 is narrowed one side to 7.35m forming a 2.4 x 43.5m vision splay south. This also improves the existing vision splay for Upper Vaynor Road to the A4054 from a substandard 2.4 x 35.8m to 2.4 x 45m and creates casual car parking spaces to serve Tabor community chapel and the Tawelfryn OAP bungalows.

The LPA have failed to consider any of the above highway schemes which would facilitate development.

Note the consultee response from the highways department offered no objection to the road narrowing scheme suggested by the applicant.

Drawing 07.

The drawing shows the loop road diverting Upper Vaynor Road through the site. Serving 6,000 vehicles per day.

Comparison of Vision Splays.

New Welsh Assembly Road Diversion.

Vision splay north is 2.4 x 29.3m serving approaching traffic.

Vision splay south is 2.4 x 19.2m.

Both vision splays well below the 2.4 x 40m deemed to be a minimum for highway safety

Refused Planning Application.

Vision splay north is 2.4 x 42m serving approaching traffic.

Vision splay south is 2.4 x 8.35m.

One vision splay exceeds required standard.
One vision splay below required standard.
2.4 x 40 m could be achieved by traffic management improvements.

Planning History.

The Delegated Report noted that previous applications P/07/0609 and P/06/0183 had been refused.

Extant Planning Consent.

The Delegated Report and the Appeal Decision by P J Davies, Planning Inspector failed to note that the site has the benefit of a previous planning consent in the early 1950s from the Vaynor and Penderyn DC re-consented in the early 1970s from Merthyr Tydfil CBC. Unfortunately, the consent lapsed, and subsequent applications and appeal were refused. The original planning consent documents have unfortunately been misplaced. However, the letter from D.N. Davies, Head of Town Planning dated 22nd May 2007 confirms approval of planning application 91/0321.

It is un-reasonable not to give due consideration to the sites planning history and extant planning consent.

No Objection from Welsh Government (WG).

It remains conjecture if at the time of the planning application and appeal that the diversionary loop of Upper Vaynor Road through the land and retention of the Cilsanws and Buckland House was official Welsh Assembly policy for enabling road works and thus a hidden agenda and non-disclosable reason for refusal and hence a cause of planning blight.

Following the planning appeal an inspection of the MTCBC planning website in September 2021 revealed a consultee letter from Helen Lewis, Route Engineer Roads and Projects Division at Welsh Government dated 10th January 2012 'confirming no comments or objections, to the road access.

Although the WG letter was recorded in the Officers Delegated Report (ODR) under Consultation, Welsh Government Highways Division - No objection. The letter was seemingly set aside and not given due and balanced consideration within the Officers Delegated report.

Prior to the appeal we inspected the planning file which did not contain the Helen Lewis letter. The letter was thus not included within the appeal and appears to have been redacted. We do recall asking the case officer David Cross for a copy of the WA letter after submission of the appeal.

The WG roads division are the highway authority responsible for the A4054 but offered no objection to the additional four traffic movements per day exiting and egressing the existing lane or driveway onto the A road from the application site.

Mr. Cross, LPA planning officer noting in his letter to Gerald Coughlin LPA highway officer of 25th January 2012, *'I have received a response from Welsh Assembly Highways Division, and they have raised no objections. I presume that they have only looked at the impact on the Trunk Road as opposed to the finer detail of the scheme.*

To describe the de-minimis increase in traffic volumes from 8 car journeys per day to 12 car journeys per day as the finer detail of the scheme totally misrepresents the traffic impact on the trunk road then carrying approx. 4500 vehicles per day.

Relevant to the traffic volumes carried by the current road diversion the original objections on highway safety dissipate from 'finer detail' of inconsequential traffic numbers to non-comparable increases in traffic numbers of 4 car journeys per day to 6000 vehicles per day.

- Helen Lewis letter confirming that WG not having any objection or comments to the site access to the A4054.
- The MTCBC consultation memo from highways offering no objection to the suggested narrowing of the road which brought increased vision splays and hence safety to the Upper Vaynor Road to A4054 junction and a wider 1.8 m pedestrian pavement. This memo is also currently not available.

We did not use this evidence in support of appeal and must therefore conclude both documents were at certain times redacted from the file.

Conclusion.

Nevertheless, it might remain the case that if one were to assume the acquiring authority scheme to have been cancelled, there was at least a reasonable expectation that planning permission will be granted for another former development or forms of development of the land [whether by itself or together with other land].

It remains the case that:

- If the dualling of the A465, (which was the unspoken elephant in the application) had been cancelled or did not exist.
- If the letter from the WG offering no objection to the drive access onto the A4054 had been given correct weight and not considered to be ignoring finer detail.
- If the consultee letter from MTCBC Highways offering no objection to narrowing of the A4054 road as a viable traffic management scheme which created acceptable vision splays and brought added road safety improvements had been given due consideration.

Then the past planning applications should have been consented.

It remains the case that:

- If the vision splays of 2.4 x 19.2 m used in the diversionary loop does not create a highway safety issue carrying 6000 vehicles per day then the original vision splay of 2.4 x 8.5 m, suitably enhanced with road narrowing and other traffic management measures should have been acceptable to carry 12 vehicles per day.
- The local planning authority did not under their own volition or by direction of the Welsh Government wish to impose constraints on the dualling of the A465 by granting a planning application.

Then the original planning application should have been consented.

Philip Griffiths.

02.01.2024

Copies to:

Lisa.m.bryan@voa.gov.uk

kherbert@ggplaw.co.uk

Robyn.Jones@wattsandmorgan.wales