

APPEALS

The following appeals have been received since my last report to Committee:

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| CODE NO. | X/18/3209991 (1837) |
| APPLICATION NO. | P/18/431/LAE |
| APPELLANT | MR H GRIFFITHS |
| SUBJECT OF APPEAL | CERTIFICATE OF LAWFULNESS FOR AN EXISTING USE OF LAND ADJOINING THE DWELLING AS DOMESTIC GARDEN: GWAR Y COED PANT Y PWLLAU COITY |
| PROCEDURE | INQUIRY |
| DECISION LEVEL | DELEGATED OFFICER |

The application was refused on the following grounds:

Insufficient information has been submitted to demonstrate that, on the balance of probabilities, the area of land to the east of the property known as Gwar y Coed, Pant y Pwllau, Coity, has been used as domestic garden for a continuous period of 10 years or more prior to the submission of this application and therefore a Certificate of Lawfulness cannot be issued.

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| CODE NO. | A/18/3210092 (1838) |
| APPLICATION NO. | P/18/159/FUL |
| APPELLANT | MR O WILLIAMS |
| SUBJECT OF APPEAL | CHANGE OF USE FROM DERELICT WORKSHOP/STORES TO USE CLASS D2 - PERSONAL TRAINING STUDIO WITH PARKING: BUILDING ADJACENT SEAVIEW FARM, HEOL GOEDOG, CEFN CRIBBWR |
| PROCEDURE | WRITTEN REPRESENTATIONS |
| DECISION LEVEL | DELEGATED OFFICER |

The application was refused for the following reasons:

1. The non-conforming use by reason of its scale and form, would introduce a commercial use that could cause a significant source of nuisance and disturbance to the detriment of the amenities of neighbouring residential properties, contrary to Policies SP2 and ENV7 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 9, November 2016).
2. The proposed development, by reason of its scale and location, would result in additional vehicular and pedestrian movements along a narrow country lane without any pedestrian refuges, to the detriment of pedestrian and highway safety, contrary to policies SP2 and PLA11 of the Bridgend Local Development Plan (2013) and advice contained within

Planning Policy Wales (Edition 9, November 2016).

3. The proposed development is situated in a relatively remote location that is not easily accessible by a range of different transport modes and will rely on the use of private motor vehicles. The proposal is therefore contrary to policy SP2 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 9, November 2016).

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|--------------------------|--|
| CODE NO. | D/18/3212252 (1839) |
| APPLICATION NO. | P/18/514/FUL |
| APPELLANT | MRS H ELWARD |
| SUBJECT OF APPEAL | ERECT A 1.8M HIGH FENCE ON THE BOUNDARY WALL TO THE SIDE OF THE PROPERTY: 43 TY GWYN DRIVE BRACKLA |
| PROCEDURE | HOUSEHOLDER |
| DECISION LEVEL | DELEGATED OFFICER |

The application was refused for the following reasons:

1. The proposal, by virtue of its siting, height and materials would constitute an unduly prominent and incongruous feature in the street scene that is out of keeping with the character and appearance of the existing dwelling and detrimental to the visual amenities of the area contrary to Policy SP2 of the Bridgend Local Development Plan 2013, advice contained in Planning Policy Wales (Edition 9, November 2016) and Technical Advice Note - 12 - Design (2016).
2. The proposed development would restrict the southern vehicular and pedestrian visibility from the driveway serving the property to the detriment of highway and pedestrian safety.

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| CODE NO. | A/18/3211218 (1840) |
| APPLICATION NO. | P/17/510/OUT |
| APPELLANT | MR & MRS KENNEDY |
| SUBJECT OF APPEAL | OUTLINE APPLICATION WITH ALL MATTERS RESERVED FOR THE PROPOSED REPLACEMENT OF FORMER FARMHOUSE AT FFOS FARM TOGETHER WITH ASSOCIATED WORKS: FFOS FARM CWMDU ROAD MAESTEG |
| PROCEDURE | HEARING |
| DECISION LEVEL | DELEGATED OFFICER |

The application was refused for the following reason:

1. The application submission fails to demonstrate that the proposed new rural enterprise has been planned on a sound financial basis and, therefore, would amount to an unjustified residential development in the countryside, contrary to Policy ENV1 - Development in the Countryside of the Bridgend Local Development Plan 2013 and advice in Planning Policy Wales Edition 9 (November 2016) and Technical Advice Note 6 – Planning for Sustainable Rural Communities (July 2010).

The following appeals have been decided since my last report to Committee

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|--------------------------|--|
| CODE NO. | A/18/3202759 (1831) |
| APPLICATION NO. | P/18/103/OUT |
| APPELLANT | MR D SMITH |
| SUBJECT OF APPEAL | NEW THREE BEDROOM DWELLING: LAND AT 49 ALBANY ROAD PONTYCYMMER |
| PROCEDURE | WRITTEN REPRESENTATIONS |
| DECISION LEVEL | DELEGATED OFFICER |
| DECISION | THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED. |

A copy of the appeal decision is attached as **APPENDIX A**

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| CODE NO. | A/18/3203880 (1835) |
| APPLICATION NO. | P/18/158/FUL |
| APPELLANT | MR A WOODHALL |
| SUBJECT OF APPEAL | DEMOLITION OF EXISTING FLATS AND CONSTRUCTION OF NEW 5 BED DETACHED HOUSE WITH ATTIC ROOM AND CAR PARKING: 1 DANYGRAIG AVENUE PORTHCAWL |
| PROCEDURE | WRITTEN REPRESENTATIONS |
| DECISION LEVEL | DELEGATED OFFICER |
| DECISION | THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE ALLOWED SUBJECT TO CONDITIONS. |

A copy of the appeal decision is attached as **APPENDIX B**

RECOMMENDATION

That the report of the Corporate Director Communities be noted.

MARK SHEPHARD
CORPORATE DIRECTOR COMMUNITIES

Background Papers (see application reference number)

Appendix A

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 06/08/18

gan Richard E. Jenkins BA (Hons) MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 05/09/2018

Appeal Decision

Site visit made on 06/08/18

by Richard E. Jenkins BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 05/09/2018

Appeal Ref: APP/F6915/A/18/3202759

Site address: 49 Albany Road, Pontycymer, Bridgend, CF32 8HE

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr D Smith against the decision of Bridgend County Borough Council.
 - The application Ref: P/18/103/OUT, dated 8 February 2018, was refused by notice dated 11 April 2018.
 - The development proposed is a new three bedroom dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline, with all matters reserved for subsequent approval. There is sufficient information provided to deal with the appeal on this basis.

Main Issues

3. These are the effect of the proposed development upon: the living conditions of the occupiers of neighbouring residential properties, with particular reference to levels of outlook, privacy and natural light; and pedestrian and highway safety, with particular reference to car parking arrangements.

Reasons

4. The appeal relates to a parcel of land that currently forms part of the rear garden area of No.49 Albany Road in Pontycymer. The land in question is located at a significantly higher ground level than the existing property at No.49 and had been subject to significant clearing and retaining works by the time I visited the site. The appeal proposal seeks outline planning permission for a two storey detached three bedroom dwelling with all matters reserved for subsequent determination. An indicative site layout, as well as indicative floor plans and elevations, have been submitted in support of the proposal.

Living Conditions

5. It was clear at the time of my site visit that, by reason of the combination of the scale and siting of the proposed dwelling within such close proximity to and at a significantly higher ground level than No.49, the development would result in significant oppressive
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and overbearing impacts on the occupiers of the existing dwelling at No.49. Indeed, I consider that such impacts would be so significant that they would cause material harm to the living conditions of the occupiers of that dwelling. I recognise that overlooking impacts from the proposed ground floor windows could potentially be minimised through detailed design and the erection of a privacy screen or landscaping buffer. However, such features would only serve to exacerbate the foregoing concerns relating to outlook. In addition, the proposed main bedroom window would, despite being off-set from the host dwelling, be located within relatively close proximity to habitable room windows and the amenity space serving No.49 and would therefore result in a material loss of privacy for the occupiers of that property. Indeed, such impacts would be greatly exaggerated by the differing site levels.

6. It was also clear at the time of my site visit that Ty Rhedyn, which comprises the neighbouring property located to the north of the appeal site, incorporates a single storey conservatory to its southern elevation. That same elevation also incorporates two windows serving habitable rooms. The Council contends that those windows would overlook the amenity space proposed as part of the appeal proposal. However, having regard to the indicative site layout, I am satisfied that private amenity space could be established within the appeal site subject to appropriate landscaping. Nevertheless, the proposed dwelling would be located within close proximity to the habitable room windows and the conservatory located at the southern elevation of Ty Rhedyn and, given the scale of the development proposed, I consider that it would result in significant overbearing and overshadowing impacts. I note the fact that the habitable rooms referred are also served by other windows. However, such arguments do not account for the impacts from the aforementioned conservatory and do not, therefore, justify the harm identified.
7. I therefore conclude that the proposed development would cause material harm to the living conditions of the occupiers of neighbouring residential properties. It follows that the development would be contrary to Policy SP2 of the adopted Bridgend Local Development Plan (LDP) which, amongst other things, seeks to ensure that the viability and amenity of neighbouring uses and their occupiers would not be affected.

Highway Safety

8. Access to the proposed dwelling would be achieved via the existing access road leading to the nearby cemetery which already serves three existing residential properties, namely Ty Rhedyn, Cae Lloi and Cysgod Y Derw. I have not seen anything to indicate that the use of this access road would be unacceptable in principle. However, the indicative site layout does not incorporate any turning facilities to allow vehicles to enter and leave in a forward gear. For this reason, I consider the Council's concerns regarding the risk of vehicles reversing onto the highway and thereby representing a risk to both pedestrian and highway safety to be well-founded.
9. I have not been provided with the full details of the circumstances of other properties within the area which are alleged to incorporate a similar set of circumstances to that proposed in this case. Nevertheless, the information before me appears to illustrate that the access arrangements at Ty Rhedyn would not necessitate reversing movements onto the highway which materially differentiates that scheme from that proposed in this case. Notwithstanding this, it is a well-established principle of planning that each case should be treated on its own particular merits and, given the potential consequences of such an arrangement, I do not consider that examples of other developments in the area should weigh heavily in favour of the development currently proposed.

10. For these reasons, I conclude that the proposed development would represent a material threat to both pedestrian and highway safety. It would therefore conflict with Policies SP2 and PLA11 of the adopted LDP which, amongst other things, respectively seek to ensure that new developments have good road connections within and outside the site, and provide satisfactory levels of parking. For the same reasons, the development would also run counter to the general thrust of the advice contained with the Council's adopted Supplementary Planning Guidance (SPG) Note 17: *Parking Guidelines*.

Overall Conclusions

11. Based on the foregoing, I find that the development would cause material harm to the living conditions of the occupiers of neighbouring properties. It would also represent a material threat to highway safety. I note and concur with the Council's assessment that there is insufficient information to satisfactorily assess the implications of the development upon surface water drainage. However, the Head of Street Scene covering drainage matters within the Council has not objected to the proposal subject to planning conditions being imposed and, as I have not seen anything to indicate that such a matter could not be satisfactorily addressed via means of planning condition, I do not consider that it renders the development unacceptable. Nevertheless, the adverse consequences of the scheme are compelling and are not, therefore, outweighed by the matters in favour of the proposal. For this reason, and having considered all matters raised, I conclude that the appeal should be dismissed.
12. In coming to this conclusion, I have considered 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 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider 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, as required by section 8 of the WBFG Act.

Richard E. Jenkins

INSPECTOR

Appendix B

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 17/08/18

gan **Richard E. Jenkins BA (Hons) MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 28/09/2018

Appeal Decision

Site visit made on 17/08/18

by **Richard E. Jenkins BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers
Date: 28/09/2018

Appeal Ref: APP/F6915/A/18/3203880

Site address: 1 Danygraig Avenue, Porthcawl, CF36 5AA

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr A Woodhall against the decision of Bridgend County Borough Council.
 - The application Ref: P/18/158/FUL, dated 28 March 2018, was refused by notice dated 22 May 2018.
 - The development proposed is the demolition of existing flats and construction of new 5 bed detached house (with attic room) and car parking.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing flats and construction of new 5 bed detached house (with attic room) and car parking at 1 Danygraig Avenue, Porthcawl, CF36 5AA in accordance with the terms of the application, Ref: P/18/158/FUL, dated 28 March 2018, subject to the conditions set out in the attached schedule.

Main Issues

2. These are the effect of the proposed development upon: the character and appearance of the area; and the living conditions of the occupiers of neighbouring residential properties, with particular reference to outlook and levels of natural light.

Reasons

3. The Local Planning Authority (LPA) granted planning permission in August 2017 for the demolition of existing flats at the appeal site and the construction of a detached dwelling. Pre-commencement conditions were discharged and work on that dwelling commenced, with the building constructed to first floor wall plate level by the time I visited the site. Work on site has now ceased, however, with planning permission sought through this appeal for a similar development that would incorporate an increased ridge height with centralised front dormer to facilitate living accommodation in the roof space. I shall confine my reasoning to the principal matters of dispute, having particular regard to the context set by the lawful fall-back position.
 4. There is little doubt that the proposed development would, by reason of its increased height and overall massing, deviate from the context set by the adjacent properties, including the new dwelling proposed to be located to the west of the appeal site. However, it was clear at the time of my site visit that the appeal site forms part of a
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wider residential area that incorporates an eclectic mix of architectural designs. As such, I do not consider that the dwelling would appear as an incongruous form of development when viewed in the wider street scene. Indeed, the combination of the lack of a consistent roof type in the area, the proposed hipped roof design, the separation distances from adjacent properties and the proposed siting back from the public highway would prevent the development from appearing as an overly prominent or discordant form of development that would cause material harm to the character and appearance of the area.

5. I have fully considered the Council's contention that the development would have unacceptable overbearing and overshadowing impacts on the private rear garden and conservatory at 'The Glade'. However, the principal ridge line of the property would be located some distance from the shared boundary with 'The Glade' and would incorporate a pitch that would slope away from that property. Similarly, whilst the rear gable feature would extend within close proximity to the shared boundary, it would only incorporate a modest increase in height relative to the lawful fall-back position and, by reason of its hipped design, would not cause any significant overbearing impacts. I note the fact that the proposed dwelling is due south of the property at the Glade. However, the shadow analysis submitted in support of the scheme illustrates that there would not be any material loss of natural light as a result of the change in design. I have assessed the impact of the proposed development on the existing property located to the east and the proposed property to the west. However, I have not seen anything to persuade me to deviate from the LPA's conclusion that the living conditions of the occupiers of those properties would not be materially harmed.
6. For these reasons, I conclude that the proposed development would not cause material harm to the character and appearance of the area. Moreover, having regard to the lawful fall-back position, neither do I consider that it would cause material harm to the living conditions of the occupiers of neighbouring residential properties by reason of loss of outlook or natural light. It follows that the development would be compliant with Policy SP2 of the adopted Bridgend Local Development Plan (LDP) and the associated Supplementary Planning Guidance (SPG) document entitled *SPG02: Householder Development*. Therefore, having considered all matters raised, I conclude that the appeal should be allowed subject to conditions.
7. I have considered the Council's suggested conditions and, having had regard to the advice in Welsh Government Circular 16/2014: *The Use of Planning Conditions for Development Management* (October 2014), have adjusted their wording in the interest of clarity and precision. In addition to the statutory time commencement condition, I have imposed a condition relating to the approved plans for the avoidance of any doubt. Condition Nos.3 and 4 are necessary in the interest of visual amenity and Condition No.5 is necessary to ensure that a satisfactory scheme of drainage is implemented. Condition Nos.6, 7 and 8 are justified in the interest of safeguarding the living conditions of the occupiers of neighbouring residential properties. I note the Council's suggested condition restricting permitted development rights relating to outbuildings, structures and other enclosures. However, as I have not seen anything by way of cogent evidence to justify such a condition I do not consider it to meet the tests set out in the aforementioned Circular.
8. In coming to foregoing conclusions, I have considered 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 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider 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, as required by section 8 of the WCFG Act.

Richard E. Jenkins

INSPECTOR

Schedule of Conditions

- 1) The development shall begin not later than five years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans and documents: *Site Location Plan; Proposed Plans and Elevations, Drawing No.P02 REV F, received by the LPA on 6 March 2018.*
- 3) Prior to the construction of the dwelling hereby approved, details or samples of the materials to be used in the construction of the external surfaces of the dwelling shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) Prior to the occupation of the dwelling hereby approved, a plan indicating the positions, height, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed as approved before the building is occupied.
- 5) No development shall commence until details of a scheme for the disposal of foul and surface water has been submitted to and agreed in writing by the local planning authority. The scheme shall include an assessment of the potential to dispose of surface water by sustainable means. The scheme shall be implemented in accordance with the approved details prior to the occupation of the dwelling and retained in perpetuity.
- 6) Notwithstanding Condition No.2 above, the first floor window openings positioned in the east facing side elevation (facing No.3 Dayygraig Avenue) shall be fitted with obscured glazing before the development is brought into use, details of which shall first be submitted to and agreed in writing by the local planning authority. Any part of those windows that are less than 1.7m above the floor of the room in which they are installed shall be non-opening. The windows shall be permanently retained in that condition thereafter.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking or re-enacting that Order with or without modification) no development shall be carried out which comes within Parts 1 (Classes A, B and C) of Schedule 2 of this order, without the prior permission of the local planning authority.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking or re-enacting that Order with or without modification) no windows other than as hereby approved shall be inserted into the eastern elevation of the dwelling hereby permitted without the prior permission of the local planning authority.