

## **APPEALS**

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

**CODE NO.** D/19/3220063 (1849)  
**APPLICATION NO.** P/18/699/FUL

**APPELLANT** Mr L NORMAN

**SUBJECT OF APPEAL** RETENTION OF FEATHER EDGE WOODEN FENCE AT THE FRONT AND SIDE OF PROPERTY  
28 CEMETERY ROAD, MAESTEG

**PROCEDURE** HOUSEHOLDER APPEAL

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reason:

1. The boundary fencing, by reason of its scale, height and finish represents an incongruous and prominent element in the streetscene to the detriment of local visual amenities, contrary to Policy SP2 of the Local Development Plan (2013), Supplementary Planning Guidance Note 02 Householder Development and advice contained within Planning Policy Wales (Edition 9)(November 2016).
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**CODE NO.** H/19/3221319 (1852)  
**APPLICATION NO.** A/18/25/ADV

**APPELLANT** MR KEN JACKSON

**SUBJECT OF APPEAL** ADVERTISING BOARD FOR JACKSON CABS  
4 SUNNYSIDE, BRIDGEND

**PROCEDURE** ADVERTISEMENT APPEAL

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposed advertisement, by reason of its size, siting and design would constitute an unduly prominent and visually obtrusive feature that would contribute to unwanted visual clutter in the street scene to the detriment of the visual amenities of the locality, contrary to the aims of Policy SP2 of the Local Development Plan (2013).
  2. The proposed advertisement, by reason of its size, siting and design would cause a distraction to highway users at the busy signal controlled junction of the classified routes A473/A4061 to the detriment of highway and pedestrian safety, contrary to the aims of Policy SP2 of the Local Development Plan (2013).
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**CODE NO.** A/19/3221703 (1853)  
**APPLICATION NO.** P/17/1027/OUT

**APPELLANT** MR A HEARNE  
**SUBJECT OF APPEAL** OUTLINE APPLICATION FOR 3 DWELLINGS  
LAND OFF CONVIL ROAD, BLAENGARW  
**PROCEDURE** WRITTEN REPRESENTATIONS  
**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reason:

1. The proposal, by reason of its siting and the location of the access point, combined with the restricted highway network and the topography of the site, would result in an overly engineered scheme that would require extensive earthworks and reprofiling of the land, generating an excessive number of trips and manoeuvres by large vehicles over and above what would be expected during the construction phase of a development, in a predominantly residential area, to the detriment of pedestrian and highway safety in and around the site and the residential amenities of adjoining occupiers, contrary to Policies SP2 of the Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 9, Nov. 2016).

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**The following appeal has been decided since my last report to Committee**

**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  
**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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**RECOMMENDATION**

That the report of the Group Manager Planning & Development Services be noted.

**JONATHAN PARSONS**  
**GROUP MANAGER PLANNING & DEVELOPMENT SERVICES**

**Background Papers**

(see application reference number)

## Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 5/12/18  
Ymweliad â safle a wnaed ar 5/12/18

gan Declan K Beggan BSc (Hons) MSc  
DipTP DipMan MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 22.02.2019

## Appeal Decision

Hearing held on 5/12/18  
Site visit made on 5/12/18

by Declan K Beggan BSc (Hons) MSc  
DipTP DipMan MRTPI

an Inspector appointed by the Welsh Ministers

Date: 22.02.2019

**Appeal Ref: APP/F6915/A/18/3211218**

**Site address: Ffos Farm, Cwmdu Road, Maesteg, CF34 0DG**

**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 & Mrs Kennedy against the decision of Bridgend County Borough Council.
- The application Ref P/17/510/OUT is dated 12 June 2017 and was refused on 6 July 2018.
- The development proposed is an "Outline application with all matters reserved for the proposed replacement of former Farmhouse at Ffos Farm together with all associated works".

### Decision

1. The appeal is dismissed.

### Procedural and Background Matters

2. Planning Policy Wales (PPW) Edition 10 was issued in December 2018 and replaces PPW Edition 9. Both main parties were given the opportunity to make further submissions in light of the advice in the revised PPW. I have taken into account the further submissions made by the appellants in terms of the revised PPW, therefore I do not consider any prejudice would arise in my dealing with this appeal on the basis of its content. Whilst I note the comments made by the Council in regards to the appellants introducing additional financial information at the same time as their response to the revised PPW, nonetheless this information in broad terms only confirmed the discussions that were made on the day of the hearing at which time the Council were able to respond; I do not consider any prejudice would arise in my dealing with this appeal on the basis of this additional information.
3. The appellants in their grounds of appeal draw attention to the fact that a dwelling was previously sited on the holding until relatively recently and that this dwelling was unlawfully demolished by another party. The appellants grounds of appeal refer, in addition to the main issue discussed below, to the proposed dwelling subject to this appeal constituting a replacement dwelling and arguments in favour of its replacement. However, it is clear from the appeal documentation that the dwelling subject to this appeal is for a new rural enterprise worker's dwelling on a new rural

enterprise<sup>1</sup>; it is on this basis that the Council determined the application and I see no reason to take a contrary view. Matters relating to the lawfulness of the historical dwelling that was sited on the holding or its replacement is a matter for the appellants to explore with the Council outside of this appeal process and as a result I have not considered this issue any further in my determination of this appeal.

4. The Council disputes that the proposed new dwelling has been planned on a sound financial basis but accepts that the other 'tests' set out within TAN 6<sup>2</sup> have been met; having regard to the submitted evidence, there is no reason for me to take a contrary view in terms of the other tests.

### **Main Issue**

5. The main issue in the appeal is whether the proposal satisfies the financial test as set out in national planning policy for a new rural enterprise dwelling.

### **Reasons**

6. The appeal site is located in a field which is currently overgrown with vegetation and is situated within open countryside near to the settlement of Maesteg; in broad terms the appeal site occupies the same area where the previously mentioned demolished dwelling was located. Near to the site lies an existing farm complex where a number of farm buildings are located in addition to a static caravan; the caravan is used in connection with the rural enterprise in terms of providing temporary accommodation to the appellants.
7. Although PPW states that new house building and other new development in the open countryside should be strictly controlled, it recognises particular circumstances of housing need which can only be met through the provision of individual dwellings in the countryside. These circumstances relate primarily to the operational needs of farming and forestry where an essential need for workers to live at or close to their place of work has been established; policy ENV1 of the adopted Bridgend Local Development Plan (LDP), in part, reflects the stance taken in PPW.
8. National guidance within TAN 6 sets out how a proposal for a rural enterprise dwelling should be assessed; it is supplemented by a Practice Guidance<sup>3</sup> (PG). In regard to TAN 6 the proposed development constitutes a new dwelling on a new rural enterprise. The relevant TAN 6 test refers to clear evidence the proposed enterprise has been planned on a sound financial basis.
9. In terms of the proposed development, a financial test should show that the rural enterprise and the activity concerned is financially sound and should have good prospects of remaining economically sustainable for a reasonable period of time. The submitted financial information<sup>4</sup> considered by the Council prior to their determination of the proposal indicated that the business accounts for 2015/16 showed a deficit, whilst & 2016/17 showed a modest profit; none of this financial information indicated

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<sup>1</sup> As confirmed by the appellant at Annex 16 of their appeal bundle

<sup>2</sup> Technical Advice Note 6 – Planning for Sustainable Rural Communities July 2010 – (TAN 6)

<sup>3</sup> Practice Guidance, Rural Enterprise Dwellings – Technical Advice Note 6 Planning for Sustainable Rural Communities, December 2011

<sup>4</sup> Referred to in detail within the appellants' submission

a salary for a full time agricultural worker<sup>5</sup>, nor did the appellants additional financial information<sup>6</sup> in the form of five-year financial projections.

10. The Council also argue that the appellants' inclusion of external funding sources such as income received by Mrs Kennedy for work away from the enterprise, and funds from Mr Kennedy's pension skew the financial projections in favour of the appellants. Whilst the appellants argue TAN 6 does not explicitly state that additional income cannot be obtained for the running of the new rural enterprise, however, the fact of the matter is that the appellants intend to rely heavily on external sources of funding to generate their projected profit margins and this is without factoring in other sources of income such as the Welsh Government's Glastir Organic and Glastir Advanced schemes. The use of external financial sources to run a business can lead to indebtedness and increased financial liabilities. In this case, bearing in mind the proposed enterprise will rely significantly on external sources of income unrelated to the actual funds generated by the agricultural enterprise itself, this casts significant doubt as to the long-term viability of the business, especially when the other costs associated with the business are factored into the calculations.
11. Based on the submitted evidence, as clarified by the document submitted at the hearing by the Council, and those other documents submitted by the appellants afterwards, if the appellants other funding sources as referred to above are excluded, i.e. Mrs Kennedy's external income and Mr Kennedy's pension, and a cost figure is included to acknowledge the salary for a full time agricultural worker, then it is apparent that the 5 year projected net farm income would not realise any positive figures. Notwithstanding this approach, the appellants argue the Council have not factored in the capital from the overhead costs which should be reintroduced to the overall calculations, the result of which leads to a healthy positive net farm income. The reason given for reintroduction of the overhead costs was stated in broad terms to allow for a comprehensive set of accounting figures to be presented, with the inference being this is typical accounting practice; I was not persuaded by this argument which in relation to the financial forecasts was only introduced at the hearing and to my mind was ambiguous, especially when the actual financial forecasts as originally submitted to the Council did not appear to adopt such an approach.
12. The PG highlights that in terms of a new rural enterprise dwelling that future financial projections are notoriously hard to formulate. In the absence of conclusive and unambiguous evidence relating to future net farm income over a sustained period I do not consider the appellants have proven a case that the new enterprise would be viable and therefore justify the erection of a new dwelling; the proposed development does not therefore meet the financial test as prescribed in TAN 6. I consider at this stage that granting planning permission for a permanent dwelling would be premature as I have not found the viability of the enterprise for a sustained period of time to be conclusively proven. Where a proposal meets the other tests as set out in TAN 6, PPW and the PG advocate temporary accommodation for a limited period to assess the matter, rather than a permanent dwelling. The Council acknowledged the validity of this approach at the hearing and indicated the appellants may wish to pursue this course of action outside of this appeal process.

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<sup>5</sup> As agreed by the parties at the Hearing to be £16588

<sup>6</sup> Referred to in detail within the appellants' appeal bundle

13. In terms of funds available to allow for the building of the proposed dwelling, the appellants state that their existing house would be sold and re-invested into the new business, along with additional savings<sup>7</sup>. The Council queried, based on average build costs of a dwelling of the size as indicated in the outline planning application, whether it could be built with the assets the appellants state would be available. The appellants explanation that their current house was mortgage free and could be re-mortgaged pending its sale to finance works to the proposed new dwelling, in addition to use of their other assets, lacked detailed information concerning actual built costs associated with the new dwelling in comparison to average build costs, and also lacked any significant detail in terms of the likelihood of a mortgage being successfully obtained to progress works, or the sale of the existing house being achieved at an acceptable price; the absence of substantive evidence in this regard injects further doubt into the future financial viability of the proposed new enterprise and the funds available to progress any new dwelling.
14. Overall, for the reasons given above, the proposed development does not meet the financial test as prescribed in TAN 6. The proposal therefore conflicts with national and local planning policies, and guidance contained within TAN 6 and the PG.

### **Conclusions**

15. Due to the specific circumstances applicable to the proposed development, and after taking account of all the evidence before me, for the reasons given above, I conclude that the appeal should be dismissed.
16. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

*Declan K Beggan*

INSPECTOR

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<sup>7</sup> Refer to page 9 of appellants statement of case

## **APPEARANCES**

### **FOR THE APPELLANT**

Gail Jenkins	Appellant's Agent
Mr & Mrs Kennedy	Appellants
Neil Bevan	Accountant

### **FOR THE LOCAL PLANNING AUTHORITY:**

Hayley Kemp	Principal Planning Officer
Richard Matthews	Planning Policy Manager

### **ADDITIONAL DOCUMENTS SUBMITTED AT THE HEARING**

1. Council's notification letter and list of those notified.
2. Council document entitled "Aid to Council's discussion on appellants financial forecast" and appellants annotated response to this document.
3. Plan indicating extent of Nant Cwn Du Bath SINC.

### **ADDITIONAL DOCUMENTS SUBMITTED AFTER THE HEARING**

1. Written response to revised PPW from appellant including reference to financial forecasts data as discussed at the hearing.
2. Council's response to appellant's further submissions.