

APPEALS

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

CODE NO.	D/19/3233411 (1866)
APPLICATION NO.	P/19/226/FUL
APPELLANT	MR C TARR
SUBJECT OF APPEAL	RETENTION OF FENCE TO FRONT OF DWELLING 81 PARK STREET, BRIDGEND
PROCEDURE	HOUSEHOLDER
DECISION LEVEL	DELEGATED OFFICER

The application was refused for the following reasons:

1. The boundary treatment by reason of its size, finish and siting in close proximity and in full view of users of the adjoining highway would represent an incongruous element in the street scene to the detriment of local visual amenities contrary to Policy SP2 of the Bridgend Local Development Plan (2013) and Supplementary Planning Guidance 02: Householder Development and advice contained within Planning Policy Wales (Ed 10 Dec 2018).
2. The proposed development will restrict visibility from the neighbouring property's existing access and would create traffic hazards to the detriment of highway safety contrary to Policy SP2 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Ed 10 Dec 2018).

CODE NO.	D/19/3233932 (1867)
APPLICATION NO.	P/19/281/FUL
APPELLANT	MR I JONES
SUBJECT OF APPEAL	FIRST FLOOR SIDE EXTENSION (VOID BELOW FOR PARKING); CHANGE ROOF TO GABLE END & EXTEND DORMER AT REAR 42 PARCAU AVENUE, BRIDGEND
PROCEDURE	HOUSEHOLDER
DECISION LEVEL	DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposed development would by reason of its siting, scale and design constitute an insensitive and unsympathetic form of development that would unbalance the existing pair of semi-detached properties and have a potential terracing effect to the detriment of the existing visual amenities of the locality. As such, the proposal is considered contrary to Policy SP2 of the Bridgend Local Development Plan (2013), the principles of Notes 16 and

17 of SPG2 - Householder Development (2008), Technical Advice Note 12 Design (2016) and advice contained within Planning Policy Wales (2018).

2. The proposed side extension by reason of its siting, scale and design, would have an unreasonably overbearing impact on the neighbouring residential property, No. 44 Parcau Avenue, to the detriment of the residential amenities enjoyed by the occupiers of that property. The proposal is therefore contrary to Policy SP2 of the Bridgend Local Development Plan (2013) and the principles of Supplementary Planning Guidance 02: Householder Development (2008).

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

CODE NO.	A/19/3225311 (1856)
APPLICATION NO.	P/18/1025/FUL
APPELLANT	MR N & MRS M ARNOLD
SUBJECT OF APPEAL	SITING OF A MOBILE TIMBER ECO RESIDENTIAL UNIT BLACKBRIDGE ARABIAN STUD, TYLAGWYN, PONTRHYL
PROCEDURE	HEARING
DECISION LEVEL	DELEGATED OFFICER
DECISION	WITHDRAWN

CODE NO.	NOT STARTED
APPLICATION NO.	ENF/17/19/ACK (1870)
APPELLANT	MR C TARR
SUBJECT OF APPEAL	UNAUTHORISED FENCE 81 PARK STREET BRIDGEND
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION	THE ENFORCEMENT APPEAL WAS TURNED AWAY BY THE PLANNING INSPECTORATE AS THE DATE BY WHICH TO LODGE THE APPEAL HAD EXPIRED

CODE NO.	C/19/3226631 (1861)
ENFORCEMENT NO.	ENF/151/18/A21
APPELLANT	MR N REES
SUBJECT OF APPEAL	PROPERTY IN STATE OF DISREPAIR 6 WARWICK CRESCENT PORTHCAWL
PROCEDURE	WRITTEN REPRESENTATIONS
DECISION LEVEL	ENFORCEMENT NOTICE (SECTION 215)

DECISION THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED AND THE ENFORCEMENT NOTICE VARIED/UPHELD.

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

CODE NO. A/19/3226420 (1859)
ENFORCEMENT NO. P/18/898/RES

APPELLANT MR DAMIEN JENKINS

SUBJECT OF APPEAL NON COMPLIANCE WITH APPROVALS P/16/222/RES, P/17/34/DOC & P/17/1086/FUL
22 ABERGARW MEADOWS (PLOT 11), BRYNMENYN

DECISION LEVEL ENFORCEMENT NOTICE

DECISION THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE ALLOWED ON GROUND C (DOWNLIGHTS) AND VARIED ACCORDINGLY: ALL OTHER GROUNDS OF APPEAL BE DISMISSED AND THE ENFORCEMENT NOTICE UPHELD.

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

CODE NO. C/19/3226431 (1860)
ENFORCEMENT NO. P/18/898/RES

APPELLANT MR DAMIEN JENKINS

SUBJECT OF APPEAL RESERVED MATTERS TO P/14/742/OUT TO RETAIN DWELLING AS BUILT WITH SWIMMING POOL AND GLAZED PANELS ABOVE BOUNDARY WALLS
22 ABERGARW MEADOWS (PLOT 11), BRYNMENYN

DECISION LEVEL WRITTEN REPRESENTATIONS

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 Group Manager Planning & Development Services be noted.

JONATHAN PARSONS
GROUP MANAGER PLANNING & DEVELOPMENT SERVICES

Background Papers (see application reference number)

Appendix A



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 14/06/19

gan **A L McCooley BA MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 29.07.2019

Appeal Decision

Site visit made on 14/06/19

by **A L McCooley BA MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 29.07.2019

Appeal Ref: APP/F6915/C/19/3226631

Site address: 6 Warwick Crescent, Porthcawl, CF36 3LH

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

- The appeal is made under section 217 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr Noel Rees against a notice under section 215 of the above Act, issued by Bridgend County Borough Council.
 - The notice, numbered ENF/151/18/A21, was issued on 4 March 2019.
 - The notice has been served because it appears that the amenity of an area is adversely affected by the condition of the above land/building.
 - The requirements of the notice are:
 1. Remove the vegetation at the western side of the property, facing the lane, up to a minimum distance of 1m from the property.
 2. Remove the ivy from the gable end of the property facing Warwick Crescent.
 - The period for compliance with the requirements is within 28 days of the date on which the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 217(1) (a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the notice be varied by deleting requirement 1 and replacing it with the following: Remove the vegetation growing at the western elevation of the dwelling (facing the lane/footpath) for a minimum of 1m from the elevation of the dwelling. Subject to this variation the appeal is dismissed, and the notice is upheld.

The Notice

2. Whilst not a ground of appeal there appears to be a misunderstanding regarding requirement 1. The appellant wrongly assumes that this step requires the removal of vegetation growing at the boundary with the adjoining lane or footpath. The Local Planning Authority has clarified that the requirement entails the removal of vegetation close to the dwelling, leaving vegetation along the footpath intact. Section 217 (4) gives me the power to correct any informality, defect or error in the notice, if satisfied that it is not material. I consider that requirement 1 should be amended to clarify the Council's intentions as set out in the decision paragraph above. The appellant is aware of the Council's position and the clarification renders the requirement less onerous. This variation causes no prejudice because it does not materially change the notice and I will vary it accordingly.
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3. The appeal is proceeding on the grounds that the condition of the land does not adversely affect the amenity of any part of the area of the Local Planning Authority who served the notice.
4. The property is a detached dwelling located towards the end of a cul-de-sac. A lane or footpath runs alongside the western boundary leading to Lock's Lane to the north. The property appears very overgrown with thick ivy covering and obscuring much of the dwelling. Dense vegetation along the western boundary extends close to the dwelling. The background to the case is that the Council wrote to the appellant about its concerns following the receipt of complaints. The appellant did not take any action to maintain the ivy or vegetation and so the Council served the notice.
5. The appellant argues that the vegetation along the lane acts as a barrier preventing further burglaries of the dwelling. The Local Planning Authority takes no issue with the vegetation along the lane/footpath and I have no reason to disagree. Whilst a fence would also provide security, the requirements of the notice would not affect the appellant's concerns. This also renders examples of vegetation blocking other footpaths/lanes that are the Council's responsibility irrelevant.
6. The appellant argues that ivy is a common feature on many dwellings. I agree. However, the ivy has been allowed to grow to such an extent that the dwelling is virtually hidden behind by thick ivy that extends out some distance from the walls of the dwelling. This contrasts with neat well-kept ivy that is a pleasant feature of many dwellings.
7. The overgrown vegetation and ivy give the dwelling an unkempt and abandoned appearance. The notice is directed to the western side of the property and the front elevation. These areas are plainly visible from Warwick Crescent and the footpath. The appellant's point about the vegetation to the rear of the property is not therefore relevant to this notice. I do not accept that overgrown ivy and vegetation is common in seaside towns outside city centres, as argued by the appellant. This is an extreme example of very overgrown vegetation on and around a property, which has been neglected for a considerable period of time to the detriment of the character and appearance of the area. I conclude that the appearance of the dwelling is detrimental to the amenity of the area and that the appeal must fail.
8. 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.

A L McCooey

Inspector



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 14/06/19

gan **A L McCooey BA MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 02.08.2019

Appeal Decision

Site visit made on 14/06/19

by **A L McCooey BA MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 02.08.2019

Appeal Ref: APP/F6915/C/19/3226431 (APPEAL A)

Site address: Plot 11 Abergarw Meadow, Bridgend, CF32 8YG

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

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Damian Jenkins against an enforcement notice issued by Bridgend County Borough Council.
 - The enforcement notice, numbered ENF/221/08/C, was issued on 28 February 2019.
 - The breach of planning control as alleged in the notice is on 25 May 2016 planning permission P/16/222/RES was granted, subject to conditions, for a detached dwelling. The development has been carried out without complying with conditions 1, 6 and 8 of planning permission P/16/222/RES.
 - The requirements of the notice are:
 - i. Remove the swimming pool and backfill with soil and seed with grass.
 - ii. Remove the downlights from the soffits/ frieze board around the roof of the property.
 - iii. Remove the glazed panels from the boundary enclosures.
 - The period for compliance with the requirements is 4 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.
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Appeal Ref: APP/F6915/A/19/3226420 (APPEAL B)

Site address: Plot 11 Abergarw Meadow, Bridgend, CF32 8YG

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 Damian Jenkins against the decision of Bridgend County Borough Council.
 - The application Ref P/18/898/RES, dated 7 December 2018, was refused by notice dated 27 February 2019.
 - The development proposed is described as "reserved matters to P/14/742/OUT to retain dwelling as built with swimming pool and glazed panels above boundary walls".
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Decision

Appeal A

1. The appeal is allowed on ground (c) insofar as it relates to the downlights in the soffits. It is directed that the enforcement notice is varied by the deletion of requirement (ii) in Section 5 of the notice and that requirement (iii) is re-numbered as (ii). Subject to this matter, the appeal on other grounds is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

2. The appeal is allowed insofar as it relates to matters other than the outdoor swimming pool and the glazed fencing panels on top of the boundary walls around it and planning permission is granted to retain the dwelling as built at Plot 11 Abergarw Meadow, Bridgend, CF32 8YG in accordance with the terms of the application, Ref P/18/898/RES, dated 7 December 2018 and the plans submitted with it so far as relevant to those parts of the development hereby permitted and subject to the conditions set out in the attached Schedule.

The Notice and Background matters

3. Outline planning permission was granted for 26 plots on land including the site under P/14/742/OUT in September 2015. That consent required the development to be carried out in accordance with a development brief, plot layout and approved levels. Reserved matters consent was granted under P/16/22/RES, however the development was not carried out in accordance with the terms of that consent. The conditions referred to in the enforcement notice (EN) relate to the development to be in accordance with the approved plans and details (no. 1); approved details of boundary treatments (no. 6); and the removal of permitted development rights for any other buildings (no. 8).
4. The matters against which the Local Planning Authority is taking action are specified in the steps required to be taken as set out above. Whilst no ground (c) appeal has been made, I raised whether the soffit lights require planning permission with the parties. I have considered the responses and address this matter below.
5. The description of development on the application form referred to the original description as used on the application for outline consent (P/14/742/OUT). This was clearly incorrect and the revised description on the decision notice and appeal form is to be preferred. The application was to retain the dwelling as built and several matters were specified in detail in the description.
6. A separate application to erect an attached garage was approved (P/17/1086/FUL) in February 2018. The garage has not been erected in accordance with the approved details in that the roof form is not as approved. The Local Planning Authority has issued a Breach of Condition Notice (BCN) in respect of this matter. The BCN requires the roof form to be altered to conform with the approved plans and details. There is no right of appeal against a BCN. However, it is clear that the application was for approval of the dwelling as built. The revisions to the roof of the garage were included in the planning application which is before me. These revisions were assessed in the Committee report on this application. It is also clear from the decision, that the refusal was of an application for revised reserved matters.

7. I note from the Officer's report that there were a number of variations to the design of the dwelling that were acceptable. The appellant seeks a split decision asking for planning permission for any part of the dwelling as built that may be acceptable. The most appropriate way to do this is under Section 73A of the Town and Country Planning Act – Planning Permission for Development already carried out (s.73A). The Local Planning Authority claims that s73A cannot be used to revise reserved matters consents as they are not the planning permissions. Although this statement was predicated on internal legal advice, no legal authority for this proposition was advanced. I do not agree with this interpretation. The purpose of this provision is to regularise a development as built. No caveats to the applicability of s73A are stated within the legislation or in any guidance, as far as I am aware. The outline permission and reserved matters consent taken together constitute the planning permission and s.73A applies to planning permissions. I consider that s73A applies and will proceed on that basis.

Main Issue

8. The main issue is the effect of the development as built on the character and appearance of the area.

Reasons

9. The appeal property is a recently completed large detached dwelling located within a new residential development of 26 building plots. A number of other large detached houses have been completed around the development and are occupied, and a number of others are currently under construction. No development has commenced on the four plots to the north of the site. The most relevant policy context is Policy SP2 of the Adopted Bridgend Local Development Plan, 2013 which requires all development to contribute to creating high quality, attractive, sustainable places. The Council also referred to Supplementary Planning Guidance 02: Householder Development in support of its case. All development on the site is the subject to the development brief referred to above.

Appeal A – ground (c)

10. The Local Planning Authority consider that the development has not been carried out in accordance with the approved plans in that the soffit lights were not shown on the approved plans and this is a breach of condition. I consider that the lights are not of such significance as to warrant being depicted on the approved plans. Indeed, the drawings do not show the underside of the soffits. The lights are an unobtrusive addition to the building similar to other minor items such as door furniture, that are not normally depicted on planning drawings. In my judgement the minor nature of these lights mean that they do not require planning permission and for the reasons given are not a breach of condition.
11. Even if I am wrong in this conclusion, the dwelling is now occupied and benefits from permitted development rights. If the lights were installed prior to occupation, then they could have been removed and promptly replaced, because they would then be permitted development. In the absence of any conditions removing such rights, the lights must be permitted development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). I conclude that they do not require planning permission and the appeal succeeds on ground (c) in relation to the soffit lights only. Requirement (ii) of the EN should be deleted as set out in the decision above.

Appeal A – ground (a)

12. A swimming pool has been constructed in the garden to the south of the dwelling. There is a public sewer crossing the site at this point. The swimming pool is within the safeguarding zone of the sewer and could cause damage to it. Access for maintenance and repairs would also be affected. The appellant accepts that this element of the development is unacceptable and does not appeal against requirement (i) of the EN or the refusal of planning permission for the swimming pool.
13. The area of garden around the swimming pool has been enclosed by the erection of glazed panels on top of the boundary walls in order to provide further privacy¹. The appellant accepts that the panels along the front boundary are inappropriate because they do not conform with the guidance in the development brief, which states that front walls should be low and constructed of brick matching the dwelling. This element of the EN and the planning application are not therefore contested. I agree that the glazed panels along the front boundary are detrimental to the character of the estate.
14. The side and rear boundary treatments require consent by virtue of the terms of the extant planning permissions for the plot. The development brief advises that side or rear boundaries that abut the public realm should be of matching brick 1.8m high. The side and rear boundary in this case abut the drive and garden of plot 10 next door and not the public realm. The panels along the side boundary are at a higher level than plot 10 and appear incongruous and out of character with the boundary treatments used on the remainder of the estate and advice in the brief. Given this conclusion, the retention of the panels along the rear boundary would appear out of character with the materials used on the other boundaries. This would be detrimental to the appearance of the dwelling and the plot. I therefore conclude that the glazed panels along the front, side and rear boundaries are detrimental to the character and appearance of the area, contrary to Policy SP2, the SPG and the development brief. This requirement of the EN is upheld and planning permission for their retention is refused.

Appeal A – ground (f)

15. I have found two of the matters specified in the EN to be harmful for the reasons set out above. The appeal on this ground related to the glazed panels to the side and rear boundaries. I have dealt with this matter above. The requirements are necessary to remedy the harm and lesser steps would not suffice. For these reasons, the appeal on ground (f) fails.

Appeal B

16. I do not need to consider the other variations to the previously approved plans that were acceptable to the Local Planning Authority. The planning permission for the garage on the plot (P/17/1086/FUL) included a "catslide" type roof² to the attached garage on the side of the dwelling. The garage has been constructed with a ridged roof with the ridge just below the main eaves of the dwelling. The Local Planning Authority considered this under the appeal application and rejected the amended roof design as out of character. It is claimed that it jars with the architectural style of the

¹ According to the Local Planning Authority's Delegated Report

² That is where the main roofline continues down over the garage

dwelling's frontage, has a different roof pitch and will be publicly visible because of a proposed side road serving 4 nearby plots.

17. My attention was drawn to several examples of this design of roof being used elsewhere on this estate, including for the gable addition of garages. I observed many examples in the immediate vicinity of the appeal site. I do not agree that the amended roof design is out of character with the area. The garage appears as a subordinate addition to the front elevation and the difference in roof pitch between it and the southern block of the dwelling is not so noticeable as to warrant the refusal of planning permission for its retention. In these circumstances, I consider that this aspect of the planning application accords with Policy SP2, the SPG and the development brief and should succeed.

Conditions

18. The appeal is being considered under s73A (as discussed above) and it is good practice to repeat any conditions that remain relevant to a reserved matters consent. Having sought the views of the parties the conditions provided below are considered necessary and appropriate. Of the other conditions attached to the outline and previous reserved matters consents, many have been complied with and details approved. Conditions 1, 3 and 20 of the outline planning permission are not relevant to an individual plot. Details of floor and site levels and landscaping have been submitted and approved. I repeat the condition requiring implementation of the approved landscaping details. A condition defining the scope of what has been allowed is necessary because certain elements of the development as built are not acceptable.

Conclusion

Appeal A

19. I have concluded that the soffit lights do not require planning permission for the reasons given. The appeal on ground (c) succeeds to that extent. I find that requirements (i) and (iii) are not excessive. These aspects of the unauthorised development are unacceptable for the reasons given and the steps are necessary in order to remedy the breach of planning control. The appeals on ground (a) and ground (f) fail.

Appeal B

20. I conclude that the amended garage roof design is in keeping with the host building and the character and appearance of the area. It accords with Policy SP2, the SPG and the brief and the appeal against the refusal of planning permission for the retention of the dwelling as built (including the garage roof) succeeds. I issue a split decision as set out above.
21. 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.

A L McCooey

Inspector

SCHEDULE OF CONDITIONS

Appeal Ref: APP/F6915/A/19/3226420 (APPEAL B)

1. The following are the approved plans and documents for the development: site location plan and drawing nos. 16.DJ 01C and 19.DJ 05C. The following matters shown on the approved plans are not approved:

- The outdoor swimming pool and
- The surrounding glazed fencing panels on top of the boundary walls.

Reason: to define the scope of this planning permission for the complete avoidance of any doubt.

2. The development shall not be brought into beneficial use until the three parking spaces have been laid out in permanent materials within the site in accordance with the approved plans for cars to be parked. The parking spaces shall thereafter be retained for this purpose in perpetuity.

Reason: To ensure adequate off-street parking is provided, in the interests of highway safety.

3. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any Order revoking and re-enacting that Order with or without modification), no buildings shall be erected other than those expressly authorised by this permission and shown on the approved plans identified in Condition 1.

Reason: In the interests of visual and residential amenities.

4. The development shall not be brought into beneficial occupation until the property has been connected to and served by separate foul and surface water sewerage systems.

Reason: To ensure that effective drainage facilities are provided for the proposed development and that flood risk is not increased.

5. The second-floor windows serving the bedroom in the roof spaces in both the northern and southern elevations shall be fitted with obscure glazing to a minimum of level 5 on the Pilkington index of obscurity and be so retained in perpetuity.

Reason: In the interests of privacy and residential amenities.

6. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority prior to any development commencing on site.

Reason: To maintain and improve the appearance of the area in the interests of visual amenity, and to promote nature conservation.