

## **APPEALS**

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

**CODE NO.** A/19/3240278 (1881)  
**APPLICATION NO.** P/19/137/FUL

**APPELLANT** MR D LLOYD

**SUBJECT OF APPEAL** RETENTION OF STEEL CONTAINER (USED FOR A FOOD DELIVERY BUSINESS) FOR A TEMPORARY PERIOD WEST WINDS, PRIORY OAK, BRIDGEND

**PROCEDURE** WRITTEN REPS

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reasons:

1. The continued use of land for the siting of the steel container and the preparation and distribution of hot food will have an adverse impact on the living conditions and wellbeing of nearby residents by reason of the noise generated by the movement of vehicles to and from the property, particularly in the late evening and the odour that would arise from the preparation and cooking of hot food. The use of land is therefore contrary to Criteria 8 and 12 of Policy SP2 of the Bridgend Local Development Plan 2013 and the national policy objective of maximising environmental protection and limiting environmental impact – Planning Policy Wales Edition 10 December 2018 refers.
2. The continued use of land for the siting of the steel container by reason of its form and appearance will detract from the character and appearance of the residential area in which it is located and conflicts with the objective of Criteria 2 of Policy SP2 of the Bridgend Local Development Plan 2013.

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**CODE NO.** A/19/3241246 (1882)  
**APPLICATION NO.** P/19/322/FUL

**APPELLANT** MRS C POACHER

**SUBJECT OF APPEAL** TIMBER SELF CONTAINED HOLIDAY LET UNIT LAND ADJACENT TO PENYLAN FARM, ABERKENFIG

**PROCEDURE** WRITTEN REPS

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposal, by reason of its location, siting and design, constitutes an undesirable, unjustified and inappropriate form of development that would be detrimental to the open character and visual amenities of the existing countryside and would introduce a new isolated building into the countryside which could set a precedent for similar undesirable development in the area contrary to Policies ENV1, REG12 and SPG2 of the Bridgend

Local Development Plan (2013) and advice contained within Planning Policy Wales Edition 10, December 2018.

2. The proposal, by reason of its form and location within the open countryside, represents an unsuitable and unsustainable form of development that is not accessible by a range of different transport modes, with an overreliance on the use of private motor vehicles. Together with the lack of a pedestrian footway, the potential for pedestrian / vehicular conflicts is increased to the detriment of highway safety contrary to Policies SP2 and SP3 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales Edition 10, December 2018.
3. Insufficient information has been submitted with the application to allow the Local Planning Authority to fully assess the potential ecological impact of the development, contrary to Policies SP2 and ENV6 of the Bridgend Local Development Plan (2013), advice contained within Planning Policy Wales Edition 10, December 2018 and Technical Advice Note (TAN 5) – Nature Conservation and Planning.

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<b>CODE NO.</b>	NOT STARTED BY THE PLANNING INSPECTORATE (1883)
<b>APPLICATION NO.</b>	ENF/193/19/A21
<b>APPELLANT</b>	MR P JENKINS
<b>SUBJECT OF APPEAL</b>	PROPERTY IN STATE OF DISREPAIR 2 EWENNY ROAD, BRIDGEND
<b>PROCEDURE</b>	WRITTEN REPS
<b>DECISION LEVEL</b>	ENFORCEMENT NOTICE

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

<b>CODE NO.</b>	A/19/3235650 (1868)
<b>APPLICATION NO.</b>	P/19/270/FUL
<b>APPELLANT</b>	MR A J WILLIAMS
<b>SUBJECT OF APPEAL</b>	RETENTION OF THE REAR FIRST FLOOR PATIO DOORS AND STEEL BALCONY WITH SUPPORTS 4 HENDRE AVENUE, OGMORE VALE
<b>PROCEDURE</b>	WRITTEN REPRESENTATIONS
<b>DECISION LEVEL</b>	DELEGATED OFFICER
<b>DECISION</b>	THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED

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**CODE NO.** A/19/3235650 (1868)  
**APPLICATION NO.** P/19/270/FUL

**APPELLANT** MR A J WILLIAMS

**SUBJECT OF APPEAL** UNAUTHORISED WORKS  
4 HENDRE AVENUE, OGMORE VALE

**PROCEDURE** WRITTEN REPRESENTATIONS

**DECISION LEVEL** ENFORCEMENT NOTICE

**DECISION** THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED AND THE ENFORCMENT NOTICE IS UPHELD.

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

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**CODE NO.** A/19/3237153 (1872)  
**APPLICATION NO.** P/19/13/OUT

**APPELLANT** MR P EVANS

**SUBJECT OF APPEAL** OUTLINE APPLICATION FOR UP TO 24 DWELLINGS AND ASSOCIATED WORKS  
LAND OFF TONDU ROAD, BRIDGEND

**PROCEDURE** WRITTEN REPS

**DECISION LEVEL** **DELEGATED**

**DECISION** THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED.

A copy of the appeal and costs application decisions are attached as **APPENDICES B and C**

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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)

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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 11/11/19

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

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 10.12.2019

## Appeal Decision

Site visit made on 11/11/19

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

an Inspector appointed by the Welsh Ministers

Date: 10.12.2019

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### Appeal A - Ref: APP/F6915/C/19/3235636

Site address: 4 Hendre Avenue, Ogmores Vale, Bridgend, CF32 7HD

**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 Alun Williams against an enforcement notice issued by Bridgend County Borough Council.
  - The enforcement notice, numbered ENF/82/19/ACK, was issued on 10 July 2019.
  - The breach of planning control as alleged in the notice is without planning permission, the erection of a rear first floor balcony.
  - The requirements of the notice are to: 5(i) Remove and keep removed the balcony installed at first floor level on the rear elevation of the above property; and 5(ii) Remove any materials which result from the requirement described in sub paragraph 5(i) above from the land.
  - The period for compliance with the requirements is two months after the Notice takes effect.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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### Appeal B - Ref: APP/F6915/A/19/3235650

Site address: 4 Hendre Avenue, Ogmores Vale, Bridgend, CF32 7HD

**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 Alun John Williams against the decision of Bridgend County Borough Council.
  - The application Ref: P/19/270/FUL, dated 15 April 2019, was refused by notice dated 27 June 2019.
  - The development proposed is retention of the rear first floor patio doors and steel balcony with supports.
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## Decision

### **Appeal A - Ref: APP/F6915/C/19/3235636**

1. The appeal 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 - Ref: APP/F6915/A/19/3235650**

2. The appeal is dismissed.
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### **Procedural Matters**

3. As set out above, there are two appeals at the appeal site. Whilst I shall consider each appeal on its own particular merits, to avoid duplication, I shall set out my reasoning together in this single document, albeit with separate formal decisions.
4. I have taken the description of development and site address in relation to Appeal B from the Council's Notice of Decision. As this information is consistent with that outlined on the Appeal Form, I am satisfied that there is no prejudice in this respect.

### **Main Issues**

5. 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 properties, having particular regard to privacy, outlook and levels of natural light.

### **Reasons**

6. The appeal relates to a split-level mid-terraced residential property located at No.4 Hendre Avenue in Ogmere Vale, Bridgend. The property appears as a traditional two storey dwelling from the public highway along Hendre Avenue although, given the gradient upon which the property is sited, it appears as a three storey property from the rear. The appeal proposals relate primarily to the erection of a substantial galvanised steel balcony structure that is accessed via rear patio doors.

#### ***Character and Appearance***

7. By reason of its scale, form and overall design, I consider that the galvanised steel balcony represents an incongruous form of development that incorporates an industrial appearance. As such, I consider that the development causes material harm to the character and appearance of the host dwelling and surrounding area, contrary to the general provisions of Policy SP2 of the adopted Bridgend County Council Local Development Plan (2013)(LDP) and the associated Supplementary Planning Guidance (SPG) document entitled '*Note 02: Householder Development*'. I have considered the fact that the development is located to the rear of the property and does not, therefore, constitute a prominent addition to the street scene. Nevertheless, it is clearly visible from a number of private dwellings and is also visible from the rear access lane. Its siting to the rear of the property does not therefore justify the development.

#### ***Living Conditions***

8. My site visit confirmed that, by reason of its scale, siting and elevated positioning, the balcony also provides for increased opportunities for overlooking of neighbouring residential garden areas. I recognise that the shared boundary walls in the area are generally of a modest height and note the fact that some overlooking is an inevitable feature of the area. However, by virtue of the open nature of the balcony, I consider that it increases such overlooking impacts to an unacceptable degree. The scale, siting and elevated positioning of the balcony also means that it represents an oppressive and overbearing structure that would cause significant overshadowing impacts during certain times of the day, particularly for the occupiers of No.6 Hendre Avenue. I recognise that habitable rooms are not significantly affected. However, the garden and rear access areas have been substantially affected by the development.
9. I therefore find that the development causes material harm to the living conditions of the occupiers of neighbouring residential properties, having particular regard to the

resulting loss of privacy, outlook and natural light. The development also conflicts with Policy SP2 and the aforementioned SPG document in this respect.

***Other Matters and Planning Balance***

10. I have considered all other matters raised, including the reference to other balconies within the area. However, I have not seen anything to suggest that such structures were granted planning permission under the current planning policy framework and, in any event, it is a well-established principle of planning that each case should be treated on its own particular merits. I do not therefore consider the presence of other balconies in the area to justify the harm identified in this case. I have fully considered, and have sympathy for, the personal circumstances advanced in the appellant's Grounds of Appeal. However, whilst such matters clearly weigh in favour of the development, such personal interests do not outweigh the public harm identified. Similarly, whilst I note the support for the development locally, such support is not on its own a sound reason for granting planning permission. Indeed, I consider the aforementioned harm to amount to a compelling reason why planning permission should be withheld in this instance.

***Overall Conclusions***

11. Based on the foregoing, and having considered all matters raised, I conclude that both Appeal A and Appeal B should be dismissed. The enforcement notice in respect of Appeal A should therefore be upheld and planning permission refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended. Planning permission should also be refused under Appeal B. In coming to these 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 these decisions are 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

## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 11/11/19

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

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 18.12.2019

## Appeal Decision

Site visit made on 11/11/19

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

an Inspector appointed by the Welsh Ministers

Date: 18.12.2019

**Appeal Ref: APP/F6915/A/19/3237153**

**Site address: Land off Tondu Road North of Pascoes Avenue, Bridgend, CF31 4JL**

**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 P Evans against the decision of Bridgend County Borough Council.
- The application Ref: P/19/13/OUT, dated 30 November 2018, was refused by notice dated 15 March 2019.
- The development proposed is outline planning application for up to 24No. dwellings and associated works.

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. I have taken the site address from the Council's Notice of Decision. As this is broadly consistent with that outlined on the Appeal Form, I am satisfied that there is no prejudice in this respect.
3. An application for costs was made by the appellant against the Local Planning Authority (LPA). This application is the subject of a separate Decision.

### Main Issues

4. I consider the main issues in this case to be: the effect of the proposed development upon the character and appearance of the area; the effect of the proposed development upon highway and pedestrian safety; and whether the development would result in the unacceptable loss of trees and features of importance for local ecology.

### Reasons

5. The appeal relates to a broadly linear parcel of land located on the south-western flank of the A4063 known as Tondu Road in Bridgend. The land lies on a relatively steep gradient and comprises a largely wooded area incorporating a number of mature trees. The appeal proposal seeks outline planning permission for up to 24No. residential dwellings and associated works, with all matters reserved for subsequent determination. The site lies within the Primary Key Settlement of Bridgend, as defined by the adopted Bridgend County Borough Council Local Development Plan (2013)

(LDP). The Council does not, therefore, object to the principle of development. I shall therefore confine my reasoning to the principal matters of dispute.

### ***Character and Appearance***

6. The Council contends that, by reason of their scale and height, the proposed dwellings would represent an excessive, incongruous and overly prominent form of development that would have a detrimental impact upon the character and appearance of the area. In contrast, the appellant refers to the fact that the application was made in outline only, with design details reserved for subsequent determination.
7. There is no doubt in my mind that scale comprises a reserved matter in this case. However, it is relevant to note that Point 4 of Part 2 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 states that: "*Where scale is a reserved matter, the application for outline planning permission must state the upper and lower limit for the height, width and length of each building included in the development proposed*". Therefore, whilst the details of scale are reserved, the scale parameters provided are a material consideration at outline stage.
8. The Council does not appear to object to the proposed width or depth of the dwellings, although it contends that their height would be inappropriate. The evidence indicates that the dwellings would have a minimum height of 15 metres when measured off Tondu Road and a maximum height of 16 metres. At such a scale, I agree with the Council's assessment that the dwellings would collectively represent an overly prominent and incongruous form of development that would jar with the local context and, in particular, the modest dwellings that front this part of Tondu Road.
9. I therefore find that the development would cause material harm to the character and appearance of the area and conflict with the general aims of Policy SP2 of the adopted LDP which, amongst other things, states that development should contribute to creating high quality, attractive and sustainable places.

### ***Highway and Pedestrian Safety***

10. Details of access are reserved for subsequent determination. However, the ability to deliver safe access and egress is clearly a material consideration at outline stage. In this case, it would appear that proposed access arrangements would need to be achieved directly off the A4063 Tondu Road. Indeed, the Indicative Site Layout identifies an area that extends across a significant proportion of the site frontage as "*The area or areas where access points to the proposed development will be situated*" and I have not seen anything to suggest that there would be any viable alternative.
11. The A4063 Tondu Road represents a principal inter-urban dual carriageway with a speed limit of 50 mph and I was able to confirm at the time of my site inspection that, by reason of its alignment and overall design, vehicles are able to travel comfortably at or around the speed limit. The Council adopts a presumption against the creation of additional access or egress points in such areas and, having regard to the significant hazards that would arise should access be provided directly from Tondu Road, I see no reason to consider that such a position is unreasonable or fundamentally flawed in this instance.
12. The appellant's transport evidence states that the proposed access arrangements could be facilitated by a reduction of the speed limit within the vicinity of the appeal site to 30 mph, although the Council has indicated that it would be unlikely to support such a Traffic Order along this section of the A4063. Having considered the available evidence, including the need for and positive benefits of the scheme, I concur with the

Council's assessment that the highway implications associated with such an Order, including those associated with the free flow of traffic, would be unjustified.

13. I note the appellant's reference to other access arrangements within the wider vicinity. However, the Council has confirmed that these represent established and historic access points over which it has no control. I have no reason to question such evidence and, in any event, I do not consider the presence of other developments to outweigh the significant public safety concerns identified in this case. Similarly, whilst the appellant has submitted evidence to indicate that the site historically incorporated access points to a quarry, nothing has been submitted to demonstrate the continued lawfulness of such arrangements. I do not therefore consider such arguments to represent a lawful fall-back position that weighs heavily in favour of the proposal.
14. In addition to such concerns, and notwithstanding the potential for a pedestrian footway to be provided along the site frontage, I have not seen anything to indicate that the site would be capable of being served by a continuous pedestrian footway. As such, and bearing in mind the fact that pedestrian access from wider facilities and services would therefore be via four lanes of traffic or along the highway verge, I also find that the development would represent a significant threat to pedestrian safety.
15. Based on the foregoing, I conclude that the development would materially undermine both highway and pedestrian safety along the A4063 Tondu Road. As such, it would conflict with criterion 6) of Policy SP2 of the adopted LDP. For the same reasons, it would also conflict with the general thrust of national policy set out in Planning Policy Wales (Edition 10, December 2018) and Technical Advice Note 18: *Transport* (2007).

### **Trees and Ecology**

16. The Council has confirmed that the appeal site forms part of the southern extent of the Cefn Glass Woods (Graig-y-Casnewydd) Site of Importance for Nature Conservation (SINC) which is designated as a semi-natural woodland with an assemblage of indicator species. It is also common ground that the site comprises a disused quarry with shaded rock exposures and scrubland. The site is therefore likely to provide good foraging and roosting opportunities for bats and the Council contends that it is a potential habitat for the dormouse, both of which are protected by legislation and policy. The evidence indicates that the site is also likely to be a valuable habitat for birds and invertebrates.
17. Nothing has been submitted to counter the evidence provided by the Council and I have not seen anything to confirm that protection, mitigation and/ or enhancement opportunities would be sufficient to avoid any unacceptable impacts on the designation or its habitat. I therefore concur with the Council's assessment that insufficient information has been submitted to enable the implications of the proposed scheme to be properly evaluated. I have considered the fact that the SINC designation is not illustrated on the LDP Proposals Map. However, the appellant appears to have been informed of its siting within the designation and, in any event, paragraph 4.1.23 advises that, in the interest of clarity and in view of their numbers, SINC's are excluded from the Proposals Map. I do not, therefore, consider such arguments to obviate the need for due weight to be attributed to such issues in the determination of this appeal. Similarly, the fact that the application was submitted at a time of year not conducive for undertaking ecological assessments is also not a valid reason for the lack of information in relation to such matters.
18. The available evidence also indicates that the site is located within an area covered by Tree Preservation Order (1954) Glamorgan County Council No.3. Supplementary

Planning Guidance (SPG) Note 7: *Trees and Development* states at Note 1 that planning applications should include a tree survey if trees on or next to the site might be affected by the proposed development, whether or not they are protected by a tree preservation order. There is little doubt that the development has potential to impact upon a number of trees on or near to the appeal site and, for this reason, I consider the Council's request for arboricultural evidence to be reasonable and necessary to fully assess the impact of the development upon such trees.

19. Therefore, in the absence of sufficient information, I consider that granting outline permission in this case would run counter to the general aims of criterion 10) of Policy SP2 which requires development to safeguard and enhance biodiversity and green infrastructure. For the same reasons, it would also conflict with the provisions of PPW and Technical Advice Note 5: *Planning and Nature Conservation*. Given that such matters are central to the acceptability of the development, I do not consider that it would be appropriate for such matters to be reserved for subsequent determination.

### ***Other Matters and Planning Balance***

20. The Council also objects to the proposed development on the basis that insufficient details have been submitted in respect of noise implications to enable a full assessment of the development. However, as I have not seen anything to suggest that such matters would be insurmountable, I do not consider such a matter to be justified as a reason for refusal, not least because of the potential for such matters to be adequately controlled through detailed design and the imposition of suitably worded planning conditions. I therefore find no conflict with criterion 8) of Policy SP2 of the adopted LDP or the general provisions of PPW in relation to such matters.
21. Similarly, whilst the Council has indicated that the appeal proposal incorporates insufficient details in respect of surface water drainage, the evidence indicates that the development would be required to obtain SuDs approval from the relevant SuDs Approval Body (SAB), as required by Schedule 3 of the Flood and Water Management Act 2010. As such legislation would adequately cover such a matter, I am therefore satisfied that there would not be any conflict with criterion 13) of Policy SP2 of the adopted LDP which states that developments should incorporate appropriate arrangements for the disposal of foul sewage, waste and water from the site.
22. I have fully considered the procedural and administrative matters raised by the appellant. However, amongst other things, the arguments relating to Article 3(2) of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 do not alter my findings in respect of the planning merits of the scheme. Indeed, I consider that the aforementioned harm and policy conflict would substantially outweigh the positive benefits of the scheme, including the contribution that it would make to the local housing land supply.
23. It is notable that, despite the LPA Officer's Report outlining the need for planning obligations relating to affordable housing provision, education provision and the provision of open space, no legal agreement or unilateral undertaking has been submitted to discharge such obligations. I have also not seen anything to indicate that such obligations are not necessary. However, the information relating to such matters is limited and the absence of such planning obligations did not form part of the Council's Notice of Decision. As such, and bearing in mind the fact that I have already found the development to be unacceptable for other reasons, I need not consider such matters further in the determination of this appeal.

**Overall Conclusions**

24. Based on the foregoing analysis, I conclude that the matters against the proposal amount to compelling reasons why planning permission should be withheld in this instance. For this reason, and having considered all matters raised, I conclude that the appeal should be dismissed. 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

## Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 11/11/19

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

**Arolygydd a benodir gan Weinidogion Cymru**

**Dyddiad: 18.12.2019**

## Costs Decision

Site visit made on 11/11/19

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

**an Inspector appointed by the Welsh Ministers**

**Date: 18.12.2019**

**Costs application in relation to Appeal Ref: APP/F6915/A/19/3237153**

**Site address: Land off Tondu Road North of Pascoes Avenue, Bridgend, CF31 4JL**

**The Welsh Ministers have transferred the authority to decide this application for costs to me as the appointed Inspector.**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
- The application is made by Mr P Evans for a full award of costs against Bridgend County Borough Council.
- The appeal was against the refusal of planning permission for outline application for up to 24No. dwellings and associated works.

## Decision

1. The application for an award of costs is refused.

## Reasons

2. Welsh Government (WG) guidance relating to an award of costs, in the form of the WG Development Management Manual (DMM) and the associated Section 12 Annex: 'Award of Costs' (May 2017) (Annex 12), advises that irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for an award of costs to incur unnecessary or wasted expense in the appeals process.
3. The appellant contends that the Local Planning Authority (LPA) failed to act in accordance with Article 3(2) of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 which states in Point 2 of Part 4: "*Where the local planning authority who are to determine an application for outline planning permission are of the opinion that, in the circumstances of the case, the application ought not to be considered separately from all or any of the reserved matters, they must within the period of one month beginning with the receipt of the application notify the applicant that they are unable to determine it unless further details are submitted, specifying the further details they require*". The evidence in this respect indicates that the application was received by the LPA on Monday 7 January 2019<sup>1</sup> and the detailed request for additional information was not sent out until 12 February 2019. However, it is unclear what additional cost has been incurred as a result of such timescales, not least because the need for further information was initially highlighted

<sup>1</sup> In accordance with Section 2(6) of Part 1 of the DMPO

in a letter dated 14 January 2019. An award of costs is not therefore justified on such grounds alone.

4. The appellant also contends that the Council behaved unreasonably for the purposes of Annex 12 of the DMM by refusing outline planning permission when the matters that constitute the reasons for refusal could have been satisfactorily controlled via the imposition of suitably worded planning condition and/ or through a subsequent reserved matters application(s). Nevertheless, whilst all matters were reserved for subsequent determination, the LPA was within its right to request the information it considered necessary to inform its decision. As such, and bearing in mind the findings of the Appeal Decision, I do not consider that it has been satisfactorily demonstrated that the LPA behaved unreasonably in this respect.
5. The appellant contends that it was unreasonable of the LPA to require ecological and arboricultural reports during winter months. However, the responsibility of ensuring that such assessments are undertaken at the appropriate time of year would have been a matter for the appellant in this case. I note the appellant's claim that the LPA concealed information in relation to the site's inclusion within a SINC. However, such accusations remain largely unsubstantiated by cogent evidence, with the aforementioned letters dated 14 January and 12 February 2019 both highlighting the site's inclusion within the designation. I note the other concerns raised, including those relating to the lack of negotiation on behalf of the LPA and the fact that the appellant was not provided with a copy of the Officer's Report. However, such matters do not represent unreasonable behaviour for the purposes of Annex 12 of the DMM and it is unclear how such matters have resulted in the appellant incurring unnecessary costs. All other issues raised remain matters for the Appeal Decision.
6. Based on the foregoing, and having considered all matters raised, I conclude that neither a full or partial award of costs is justified in this case. The application for an award of costs should therefore be refused.

*Richard E. Jenkins*

INSPECTOR