

## APPEALS

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

**CODE NO.** A/20/3249036 (1888)  
**APPLICATION NO.** P/19/342/FUL

**APPELLANT** MR S TALBOT

**SUBJECT OF APPEAL** RETENTION OF CHANGE OF USE TO A GYM  
UNIT 11 QUEENS COURT, BRIDGEND INDUSTRIAL ESTATE

**PROCEDURE** WRITTEN REPS

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reason:

1. The retention of the gym facility, by reason of the nature and type of operation and the lack of a sufficient dedicated parking area, is contrary to the guidance contained within Supplementary Planning Guidance 17 Parking Standards (2011) and Policy PLA11 of the Local Development Plan (2013) and will continue to generate increased demand for on-street parking, to the detriment of the safety and free flow of traffic on the adjoining highway network.

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**CODE NO.** C/20/3250570 (1889)  
**APPLICATION NO.** ENF/182/19/ACK

**APPELLANT** MISS E ROBERTS

**SUBJECT OF APPEAL** UNAUTHORISED USE AS A HOLIDAY LET  
IVY COTTAGE, COURT COLMAN, BRIDGEND

**PROCEDURE** WRITTEN REPS

**DECISION LEVEL** ENFORCEMENT NOTICE

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**CODE NO.** A/20/3250766 (1890)  
**APPLICATION NO.** P/19/628/FUL (APPEAL AGAINST CONDITIONS)

**APPELLANT** MR G GIRLETZ

**SUBJECT OF APPEAL** RETENTION OF LAND INCLUDED INTO CURTILAGE AND NEW  
STORAGE SHED IN REAR GARDEN  
87 SKYLARK ROAD, NORTH CORNELLY

**PROCEDURE** WRITTEN REPS

**DECISION LEVEL** DELEGATED OFFICER  
**The Appeal has been withdrawn**

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| <b>CODE NO.</b>          | A/20/3246041 (1891)  |
| <b>APPLICATION NO.</b>   | P/20/11/OUT  |
| <b>APPELLANT</b>         | MR P EVANS   |
| <b>SUBJECT OF APPEAL</b> | OUTLINE APPLICATION FOR UP TO 9 DWELLINGS AND ASSOCIATED WORKS<br>LAND OFF TONDU ROAD, NORTH OF PASCOES AVENUE<br>BRIDGEND |
| <b>PROCEDURE</b>         | WRITTEN REPS   |
| <b>DECISION LEVEL</b>    | COMMITTEE  |

The application was refused for the following reasons:

1. The proposed development, by reason of its location, scale, siting and design, fails to provide a satisfactory means of access to serve the traffic generated by the proposed development to the detriment of highway safety along the adjoining A4063 Tondy Road contrary to the provisions of Policy SP2 of the Bridgend Local Development Plan and advice contained in Planning Policy Wales (Edition 10 December, 2018).
2. The proposed development, by reason of its location, scale, siting and design, fails to provide a satisfactory means of continuous pedestrian footway to serve pedestrian movements generated by the proposed development, to the detriment of highway safety along and crossing the A4063 Tondy Road contrary to the provisions of Policy SP2 of the Bridgend Local Development Plan and advice contained in Planning Policy Wales (Edition 10 Dec 2018).
3. The proposed access arrangement will likely generate vehicular 'U' turn movements at the junction access to the Trews Field Industrial Estate and/or at the point where Tondy Road changes from a single to a dual carriageway creating traffic hazards to the detriment of highway safety contrary to Policies SP3 and PLA5 of the Bridgend Local Development Plan and advice contained in Planning Policy Wales (Edition 10 Dec 2018).
4. The proposed development, by reason of its scale, siting and design, would constitute overdevelopment of the site as it is too restricted to accommodate the number of dwellings of the scale parameters identified in the application consistent with generally accepted standards of space about new residential development contrary to Policy SP2 of the Bridgend Local Development Plan and advice contained within Planning Policy Wales (Edition 10 Dec 2018).
5. The proposed development, by reason of its scale, siting and design, would constitute an undesirable intrusion of built development into an area of considerable landscape value to the detriment of the conservation and enhancement of the Cefn Glas Wood Site of Importance for Nature Conservation, the existing woodland and its habitats and to the detriment of the visual amenities of the area, contrary to Policies SP2, SP4, ENV4, ENV5 and ENV6 of the Bridgend Local Development Plan and SPG19 Biodiversity & Development: A Green Infrastructure Approach and advice contained within Planning Policy Wales (Edition 10 Dec 2018) and TAN5 : Planning and Nature Conservation.

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| <b>CODE NO.</b>        | A/20/3246041 (1892) |
| <b>APPLICATION NO.</b> | P/20/11/OUT         |

**APPELLANT** MR S JOHN  
**SUBJECT OF APPEAL** ERECTION OF ONE SINGLE STOREY DWELLING (BUNGALOW)  
31 FELINDRE ROAD, PENCOED  
**PROCEDURE** WRITTEN REPS  
**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reason:

1. Insufficient details have been submitted to demonstrate that the risks and consequences of flooding can be managed to an acceptable level contrary to advice contained in Planning Policy Wales (Ed10), Technical Advice Note 15: Development & Flood Risk and Policy SP2 of the Bridgend Local Development Plan (2013).

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**CODE NO.** D/20/3253435 (1893)  
**APPLICATION NO.** P/20/194/FUL

**APPELLANT** MR W HOPKINS  
**SUBJECT OF APPEAL** FIRST FLOOR EXTENSION ABOVE EXISTING SIDE ANNEX  
7 PARK AVENUE, PORTHCAWL  
**PROCEDURE** WRITTEN REPS  
**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reason:

1. The dormer extension, by reason of its siting, scale and design, constitutes an inappropriate, unsympathetic and incongruous form of development to the detriment of the visual amenities of the existing property, the street scene and the surrounding area, contrary to Policy SP2 of the Bridgend Local Development Plan (2013) and advice contained within Supplementary Planning Guidance Note 2: Householder Development (2008) and Technical Advice Note (TAN) 12: Design (2016).

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**CODE NO.** A/20/3253366 (1894)  
**APPLICATION NO.** P/19/219/OUT

**APPELLANT** MR P A BETHEL  
**SUBJECT OF APPEAL** OUTLINE APPLICATION FOR 2 DETACHED DWELLINGS  
FORMER BT REPEATER STATION, ISLAND FARM ROAD,  
BRIDGEND  
**PROCEDURE** WRITTEN REPS  
**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reasons:

1. A satisfactory means of access cannot be achieved to serve traffic generated by the proposed development contrary to Policies SP2 and PLA5 of the Bridgend Local Development Plan.
2. The proposed development will generate additional vehicular turning movements to or from the public highway, creating further traffic hazards to the detriment of highway safety contrary to Policies PLA5 and SP2 of the Bridgend Local Development Plan.
3. Insufficient details in respect of noise has been submitted to enable the implications of the proposed scheme to be properly evaluated by the Local Planning Authority, contrary to criteria (8) of Policy SP2 of the Local Development Plan (2013), Technical Advice Note 11 Noise, and guidance contained within Planning Policy Wales (Edition 10, December 2018).
4. Insufficient details in respect of drainage arrangements and ecological impacts have been submitted to enable the implications of the proposal to be properly evaluated by the Local Planning Authority contrary to Policies SP2, ENV4 and ENV6 of the Bridgend Local Development Plan.

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

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| <b>CODE NO.</b>          | A/19/3239745 (1877)  |
| <b>APPLICATION NO.</b>   | P/19/216/FUL   |
| <b>APPELLANT</b>         | MR W CARROLL & FAMILY  |
| <b>SUBJECT OF APPEAL</b> | RETENTION OF THE USE OF LAND FOR THE STATIONING OF ONE STATIC RESIDENTIAL GYPSY CARAVAN TOGETHER WITH THE ERECTION OF A DAY/UTILITY ROOM, ONE TOURING CARAVAN AND CAR PARKING:<br>THE YARD, ROGERS LANE, CEFN CRIBWR |
| <b>PROCEDURE</b>         | HEARING  |
| <b>DECISION LEVEL</b>    | DELEGATED OFFICER  |
| <b>DECISION</b>          | THE APPEAL HAS BEEN WITHDRAWN  |

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| <b>CODE NO.</b>          | A/19/3239745 (1878)  |
| <b>APPLICATION NO.</b>   | P/19/216/FUL   |
| <b>APPELLANT</b>         | MR W CARROLL & FAMILY  |
| <b>SUBJECT OF APPEAL</b> | UNAUTHORISED USE FOR CARAVAN STORAGE<br>THE YARD, ROGERS LANE, CEFN CRIBWR |
| <b>PROCEDURE</b>         | HEARING  |
| <b>DECISION LEVEL</b>    | ENFORCEMENT NOTICE   |
| <b>DECISION</b>          | THE APPEAL HAS BEEN WITHDRAWN  |

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**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, BRACKLA

**PROCEDURE** WRITTEN REPS

**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.** C/20/3244105 (1883)  
**APPLICATION NO.** ENF/193/19/A21

**APPELLANT** MR P JENKINS

**SUBJECT OF APPEAL** PROPERTY IN STATE OF DISREPAIR  
2 EWENNY ROAD, BRIDGEND

**PROCEDURE** WRITTEN REPS

**DECISION LEVEL** ENFORCEMENT NOTICE

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

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

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**CODE NO.** E/20/3244575 (1884)  
**APPLICATION NO.** P/19/799/CAC

**APPELLANT** MR N CAREY

**SUBJECT OF APPEAL** CONSERVATION AREA CONSENT FOR THE REMOVAL OF A 1.5M HIGH WALL  
TAN Y BRYN, DINAM STREET, NANTYMOEL

**PROCEDURE** WRITTEN REPS

**DECISION LEVEL** **DELEGATED OFFICER**

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

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|--------------------------|--|
| <b>CODE NO.</b>          | E/20/3245217 (1885)  |
| <b>APPLICATION NO.</b>   | P/19/798/FUL   |
| <b>APPELLANT</b>         | MR N CAREY   |
| <b>SUBJECT OF APPEAL</b> | REMOVAL OF A 1.5M HIGH WALL, CREATE PARKING AREA WITH 2M HIGH WOODEN GATES AND DROP KERB TAN Y BRYN, DINAM STREET, NANTYMOEL |
| <b>PROCEDURE</b>         | WRITTEN REPS   |
| <b>DECISION LEVEL</b>    | <b>DELEGATED OFFICER</b>   |
| <b>DECISION</b>          | THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED.               |

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



## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 11/06/20

gan H C Davies BA (Hons) Dip UP  
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 30.06.2020

## Appeal Decision

Site visit made on 11/06/20

by H C Davies BA (Hons) Dip UP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 30.06.2020

**Appeal Ref: APP/F6915/A/19/3240278**

**Site address: West Winds, Priory Oak, Brackla, Bridgend CF31 2HY**

**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 David Lloyd against the decision of Bridgend County Borough Council.
- The application Ref P/19/137/FUL, dated 25 February 2019, was refused by notice dated 31 July 2019.
- The development is described as 'We require the granting of a temporary change of use to A3 for part of our land (rectangle outlined in red on proposed drawing) so that we may continue running a small Thai food delivery business. The business is run out of a 30ft steel site office which has been sited on the property and running for 1 year. We will be submitting planning shortly to build some retail units on another site we own and once built we will move into one of these new units. We require temporary planning to be able to carry on our operations at West Winds until the new units are ready. A period of 18-24 months would be sufficient.'

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. I have dealt with the application on the basis that it seeks permission in retrospect given that the container is already in situ and the associated food delivery business is already operating from this location.

### Main Issues

3. These are the effect of the proposal on the character and appearance of the area and residents' living conditions.

### Reasons

#### *Character and appearance*

4. The appeal relates to a container sited within an extensive residential curtilage at the end of a cul-de-sac at Priory Oak, which forms part of the wider, established Brackla housing estate. Priory Oak is a quiet and pleasant cul-de-sac which comprises largely detached properties set back from the road with open grassed frontages and hard surfaced driveways. The appeal site is enclosed by mature vegetation along the majority of its boundaries. The steel container is of a substantial size and occupies a

position close to the front and side of the dwelling, immediately adjacent to the drive and can be seen from the property's gated entrance.

5. Owing to the mature vegetation around the majority of the site's curtilage, views into the appeal site from the wider area are largely restricted. Nonetheless, the container is open to public view when approaching along Priory Oak. Furthermore, despite the boundary treatments and intervening separation distance, the container is also partially visible from the upper floor windows of dwellings fronting onto Gwaun Close, to the north. Whilst only intended to be temporary, it has a harsh utilitarian appearance, largely on account of its box-like form and steel profile construction and is an incongruous feature in this domestic setting. I concur with the Council's assessment that it would represent an insensitive and poor standard of design that would be out of keeping with both its immediate and wider context.
6. The appellant has indicated a willingness to clad or paint the container, however, I do not find that such measures would be sufficient to mitigate its boxy industrial appearance or make it any less intrusive.
7. I conclude that the container causes unacceptable harm to the character and appearance of the area. Therefore, it fails to accord with Policy SP2 of the Bridgend Local Development Plan (LDP), which, amongst other things, states that development should have a design of the highest quality possible, whilst respecting and enhancing local character and distinctiveness.

#### *Living Conditions*

8. The container is located within close proximity to existing residential properties along Priory Oak. As such, the use for food preparation and delivery, particularly if it would intensify, would have a potential to cause significant adverse effects on the living conditions of the occupiers of nearby residential properties in terms of increased levels of noise and disturbance.
9. As part of the home delivery service, the appellant maintains there would be two or three deliveries on various nights of the week and an additional number of deliveries on Friday and Saturday nights. Whilst the additional number of journeys is not specified by the appellant, the Council claim on the busiest evenings there would be up to 10 deliveries. Noise associated with deliveries from the site, including engine noise, closing of vehicle doors, as well as from brakes being applied, is likely to be noticeable and disruptive, particularly in the evenings when local residents can reasonably expect a quiet environment within which to relax or sleep. In the event that the use intensifies at this location and given the lack of control over deliveries, this would result in further disturbance for longer periods, particularly if those deliveries were made late into the evening.
10. Although the appellant indicates that deliveries are combined to reduce the number of additional trips to/from the property, it would be difficult to monitor and enforce conditions that limit or restrict the number of deliveries. Furthermore, the appellant has no control over what times in the evening delivery orders are placed. Customers placing orders would expect a hot food delivery within a reasonable time, as such, deliveries are likely to be more sporadic than that indicated by the appellant. The appellant submits that the business has operated without detriment to date and no objections were submitted by neighbouring occupiers in respect of noise and disturbance at the time of the planning application. I do not dispute this, but it would not justify allowing the proposed delivery service in a location where such uses are incompatible with the residential nature of the area.



11. The Council also raises concern regarding potential cooking odours emanating from the kitchen. Whilst I agree that care needs to be taken, the container is a sufficient distance away from the nearest residential property on Priory Oak not to cause material harm in this respect. A modern, properly maintained odour control system would also reduce the impact of kitchen odours on local residents, subject to the imposition of appropriate conditions.
12. The appellant submits that the container is only required for 18-24 months, until a more permanent unit can be built on an alternative site. However, the reason for granting a temporary permission should never be that a time limit is necessary because of the effect of the development on the amenity of the area. In this instance, even for a temporary period the effects of the development would be unacceptable.
13. I conclude that the additional noise and general disturbance generated by a hot food preparation and delivery use in this residential location would be harmful to the living conditions of neighbouring occupiers. Consequently, it would conflict with LDP Policy SP2, which states, amongst other things, that development should have full regard to the built environment by avoiding or minimising noise pollution.

### **Conclusions**

14. In reaching my decision, I have taken account of 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 one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.
15. For the reasons given above I conclude that the appeal should be dismissed.

*H C Davies*

INSPECTOR

## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 10/03/20

gan Alwyn B Nixon BSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 01.05.2020

## Appeal Decision

Site visit made on 10/03/20

by Alwyn B Nixon BSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 01.05.2020

**Appeal Ref: APP/F6915/C/20/3244105**

**Site address: 2 Ewenny Road, Bridgend CF31 3HL**

**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 by the Planning and Compensation Act 1991.
- The appeal is made by Mr Paul Jenkins against a proper maintenance of land notice issued by Bridgend County Borough Council under section 215 of the above Act.
- The notice was issued on 10 December 2019.
- The steps required to be taken for remedying the condition of the land are:
  - a. Remove the side lean-to extension leaving the original boundary wall in place.
  - b. Replace the roof on the front lean-to.
  - c. Replace the roof on the rear single storey extension.
  - d. Remove and replace all windows and external doors with double glazed white upvc.
  - e. Remove and replace the rain water goods with black upvc rain water goods.
  - f. Remove the rusted railings along the front boundary and replace with black railings.
  - g. Clear all the rubbish and vegetation from the front garden.
  - h. Clear the vegetation above fence level in the rear garden.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 217(1)(b), (c) and (d) of the Town and Country Planning Act 1990 as amended.

### Decision

1. It is directed that the notice be corrected by the substitution of the plan annexed to this decision for the plan attached to the notice. Subject to this correction the appeal is allowed and the notice is quashed.

### Procedural matter

2. During the course of the appeal it emerged that the red line area identified on the plan attached to the section 215 notice incorrectly included a building in different ownership and use located to the rear of 2 Ewenny Road. The Council has confirmed that it was not its intention to include these other premises as part of the land to which the notice relates, and has provided a new plan identifying the correct, smaller land area. I shall correct the notice by substituting this plan; I am satisfied that no injustice is caused to any party by doing so.

### Reasons

#### Ground (b)

3. The basis of an appeal on ground (b) is that the condition of the land to which the notice relates is attributable to, and such as results in the ordinary course of events

from, the carrying on of operations or a use of land which is not in contravention of Part III of the Act (control over development).

4. I note the appellant's explanation of the circumstances which have led to the property deteriorating to its current state. Nonetheless, it is clear that the condition of the land has resulted from a lack of maintenance of the property during the prolonged period of non-use which has now persisted for more than 10 years. Although limited steps such as clearance of vegetation and rubbish have been taken from time to time, this has only temporarily relieved the situation. The neglected state of the land is attributable to a lack of active use and upkeep rather than to the ordinary course of events which might reasonably be expected to arise from use for its lawful residential purpose. Consequently, the appeal on ground (b) fails.

### **Ground (c)**

5. The basis of ground (c) is that the requirements of the notice exceed what is necessary for preventing the condition of the land from adversely affecting the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area.
6. No. 2 Ewenny Road is a vacant residential building comprising a semi-detached four storey dwelling with a ground floor flat. It occupies a corner plot adjacent to a busy road junction on the periphery of the town centre. The appearance of the property has suffered due to it being vacant and poorly maintained for a prolonged period, resulting in a neglected appearance and the attraction of litter. The building's ground floor openings have been boarded up, in an effort to deter illegal entry and vandalism.
7. I agree that the condition of the land at 2 Ewenny Road adversely affects the amenity of its surroundings and it is apparent that an unsatisfactory situation has persisted without proper resolution for a considerable time. I am sympathetic to the Council's position that a solution needs to be found. However, I consider that the requirements of the section 215 notice issued by the Council go far beyond what is necessary to remedy the harm to amenity arising from the land's condition. The side extension referred to in requirement a. of the notice is an established and integral part of the building and evidently comprises the entrance porch access arrangement to the main dwelling unit. There is nothing in the Council's submissions which leads me to conclude that the removal of this part of the building is necessary to prevent the condition of the land from adversely affecting local amenity. The Council now accepts that the side extension can be retained, subject to measures to improve its condition.
8. Requirements b. and c. of the notice require the replacement of roofs on the front lean-to and rear single storey extensions. The appellant accepts that the front lean-to extension roof, which has a covering of corrugated sheets some with large holes in them, needs attention. However, the flat roof on the single storey rear extension is not generally visible from the public domain and there is no evidence that its condition affects the amenity of the area. Moreover, the Council's appeal submissions indicate that it does not know whether this roof is in good condition or not. I therefore conclude that whilst requirement b. is justified in order to prevent the land's condition from adversely affecting amenity, requirement c. of the notice is excessive.
9. Turning to requirement d., the ground floor window and door openings are predominantly boarded up, to prevent vandalism and/or unauthorised access. This is a sensible practical measure, given the building's current lack of use. The Council's submissions indicate that it considers that the boarding should be removed; however, this would make the building susceptible to further unauthorised entry and vandalism,

so long as it remains unoccupied. Whilst the boarded-up openings do not help the building's appearance, and the exposed windows appear in need of cleaning, repainting and/or repair, I consider nonetheless that the requirement to remove and replace all windows and external doors with double glazed white upvc units goes beyond what is necessary and warranted in order to alleviate the harm to amenity caused by the condition of the land.

10. Requirement e. is to remove and replace the rain water goods with black upvc rain water goods; requirement f. is to remove the rusted railings along the front boundary and replace with black railings. In relation to requirement e. the appellant states that whilst the existing rainwater goods require painting, they are functioning correctly. The Council now states that it would have no objection to the existing rainwater goods being retained and painted black, provided that they are of good condition and in working order. There is no evidence before me that the existing rain water goods are not functioning adequately. I conclude that requirement e. of the notice is excessive, and that it is evident that the Council, on reflection, accepts this. As regards requirement f., I share the appellant's view that the ornamental railings along the front boundary, whilst rusted, are still serviceable, and that rust-proofing and repainting would satisfactorily address the harm to amenity caused by their current condition. On this basis I conclude that requirement f. to remove the existing railings and replace them with new railings exceeds what is necessary to remedy the harm to amenity caused by their current condition.
11. In relation to requirements g. and h., the appellant states that rubbish was cleared from the garden on 23 October 2019, shortly before the notice was issued. However, at my visit I observed some accumulated items of rubbish within the front garden area, and the presence of overgrowing ivy and weeds, including in the guttering of the front lean-to extension. These matters contribute to the neglected and unsightly appearance of the land. Although the appellant asserts that on 23 October there was no vegetation in the rear garden appearing above the height of the fence, at the date of my visit scrubby vegetation was clearly visible over the fence from the street, which contributed materially to the neglected appearance of the land. I conclude that requirements g. and h. of the notice are justified in the interests of amenity.
12. In summary, therefore, I conclude in relation to the appeal on ground (c) that requirements a., c., d., e. and f. of the notice exceed what is necessary for preventing the condition of the land from adversely affecting the amenity of its surroundings. The appeal on ground therefore succeeds in these terms.
13. I have considered whether, in the light of the appeal submissions and my findings, I should attempt to vary the terms of the notice in favour of the appellant, thereby allowing the notice to stand but with less onerous requirements. However, I have decided not to do this, for two reasons. First, although the parties are evidently in agreement that the roof on the front lean-to extension needs to be replaced (requirement b.), I am concerned that the notice does not specify the manner in which this must be done. As it stands, the notice leaves it open to interpretation (either by the appellant, if complying with the notice, or by the Council, if carrying out works in default and subsequently reclaiming the expenditure) as to the extent of the works undertaken, including the materials chosen, and so as to their cost. I consider that for me to attempt to impose more specific requirements in this respect would risk causing injustice to one party or the other.
14. Second, whilst there appears to be agreement between the parties as to appropriate lesser works in relation to requirement e., as outlined above, and it would be possible for me to substitute a requirement to rust-proof and repaint the existing railings in

relation to requirement f., I consider that there is insufficient evidence in relation to the matters within requirement d. to enable me to reach a conclusion with precision as to the lesser steps necessary to remedy the harm to amenity. Indeed, there may be more than one acceptable way forward. In my view the precise form of any lesser steps is a matter best reached through constructive discussion between the parties. My view that further discussion between the parties in the light of my decision is desirable is reinforced by the fact that the section 215 notice and the correspondence preceding it was directed at the appellant's brother, who apparently has not historically been the primary party with whom the Council has conducted discussions concerning the land.

15. Notwithstanding my overall decision that the current section 215 notice should be quashed, it is of course open to the Council to consider issuing a fresh notice, having taken account of the findings in this decision, if it considers it appropriate to do so.

#### **Ground (d)**

16. Ground (d) is that the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed. In the light of my decision that the appeal succeeds on ground (c) and that the notice should be quashed, there is no need for me to consider the matters raised on ground (d).

#### **Overall conclusion**

17. Having regard to all matters raised, I conclude for the reasons given above that the appeal should succeed on ground (c) and that the notice should accordingly be quashed. 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. The Council's wish to remedy the harm to amenity caused by the land's unsatisfactory condition is consistent with the Act's sustainable development principle, having regard to the Welsh Ministers' well-being objectives of building healthier and resilient communities and better environments. However, notwithstanding this, for the reasons given above the notice must be quashed.
18. I therefore quash the notice as corrected in paragraph 2 above.

*Alwyn B Nixon*

**Inspector**



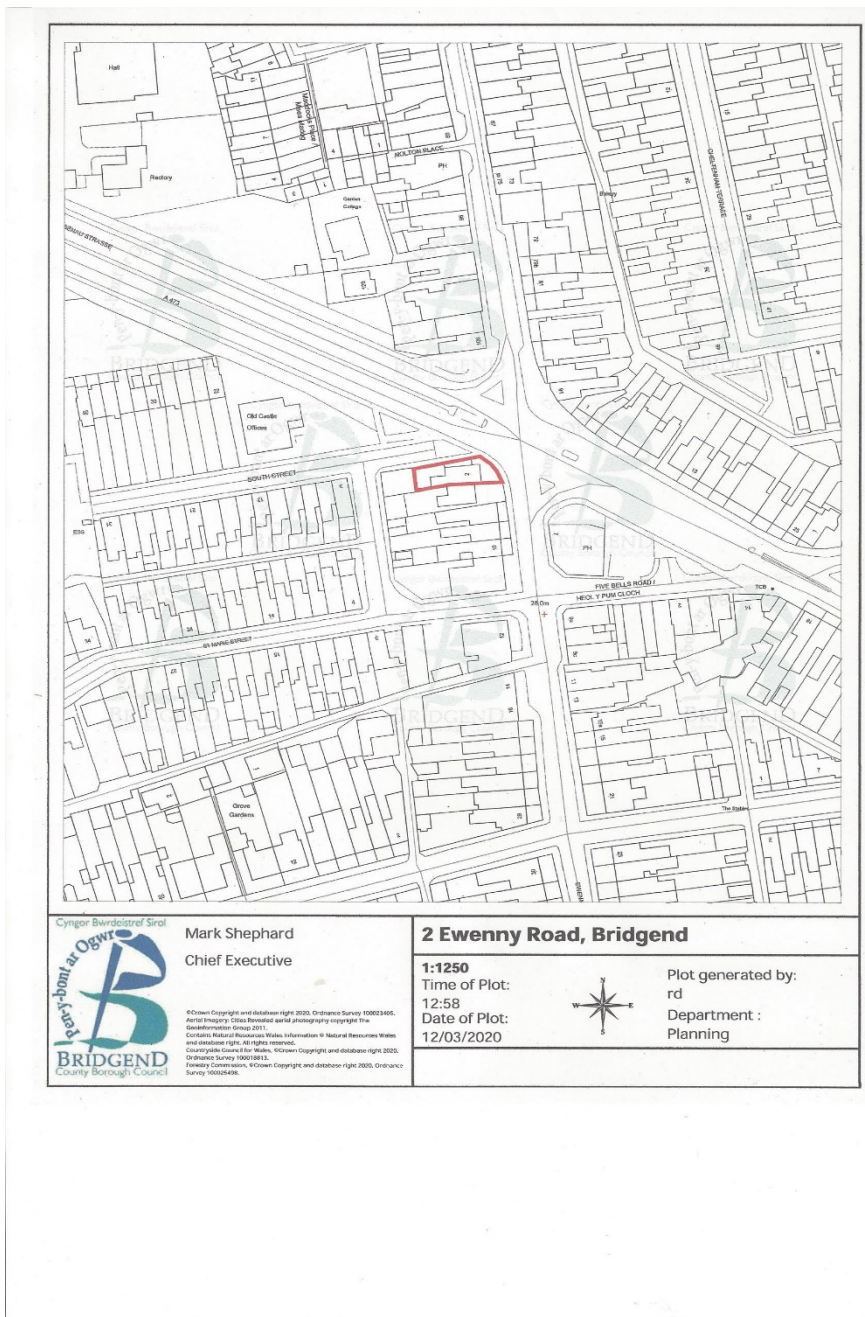
# Plan

This is the plan referred to in my decision dated:

by **Alwyn B Nixon BSc MRTPI**

Land at: **2 Ewenny Road, Bridgend CF31 3HL**

Reference: **APP/F6915/C/20/3244105**





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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 10/03/20

gan Alwyn B Nixon BSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 24.04.2020

## Appeal Decision

Site visit made on 10/03/20

by Alwyn B Nixon BSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 24.04.2020

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**Appeal Ref: APP/F6915/E/20/3244575**

**Site address: Tanybryn, Dinam Street, Nantymoel, Bridgend CF32 7NN**

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

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for conservation area consent.
  - The appeal is made by Mr Norman Carey against Bridgend County Borough Council.
  - The application, Ref P/19/799/CAC, is dated 16 October 2019.
  - The demolition proposed is demolition of a 1.5 metre high boundary wall.
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**Appeal Ref: APP/F6915/A/20/3245217**

**Site address: Tanybryn, Dinam Street, Nantymoel, Bridgend CF32 7NN**

**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 failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Norman Carey against Bridgend County Borough Council.
  - The application, Ref P/19/798/FUL, is dated 16 October 2019.
  - The development proposed is demolition of a 1.5m high wall and construction of a block-paved parking area and vehicular access together with installation of 2 metre high wooden gates.
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### Decision

1. Appeal **APP/F6915/E/20/3244575**: The appeal is dismissed.
2. Appeal **APP/F6915/A/20/3245217**: The appeal is dismissed.

### Procedural Matters

3. The development was carried out before the applications were made to the Council. I have considered the appeals on the basis that planning permission and conservation area consent is sought retrospectively for the development as carried out.
  4. The appeals were made following the Council's failure to determine the submitted applications within the relevant statutory period. However, the Council subsequently issued decisions, dated 23 January 2020, refusing planning permission and conservation area consent within the period of dual jurisdiction applicable after the
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appeals were lodged. Notwithstanding the fact that the applications were undetermined at the time the appeals were made I have therefore dealt with the appeals as being against the Council's subsequent decisions.

## Reasons

5. The main issue in both appeals is whether the development preserves or enhances the character or appearance of the Nantymoel Conservation Area.
6. The appeal property is situated within a cohesive and compact layout of nineteenth century terraced housing in the former mining community of Nantymoel. Tanybryn is located at the apex of Dinam Street and Ogmore Terrace, with the gable end of Tanybryn running alongside the footway of Dinam Street. Photographic images submitted by the Council show that prior to the development taking place the curtilage area on the south side of the dwelling was a small garden separated from Dinam Street by a wall of traditional character built of local stone, about 1.5m high and continuing southwards from the appeal site along the back of the footway. The boundary wall stopped just short of the gable end of Tanybryn, leaving a pedestrian-only access on this side of the dwelling. The development carried out has involved the demolition of the northernmost 2.7m (9 feet) or so of the wall and replacement with a pair of vertical-boarded timber wooden gates, providing vehicular access to paved parking created within the garden area.
7. The Nantymoel Conservation Area was designated in 1973. There is a statutory duty, when considering development proposals in conservation areas, to pay special attention to the desirability of preserving or enhancing the conservation area's character or appearance. The Council's leaflet "Nantymoel Conservation Area Article 4 (2) Direction and Conservation Area Guide" describes the significance of the built form at Nantymoel Conservation Area and refers to the authority's recent decision to introduce additional control over boundary treatments within the Conservation Area. It notes that the terraced houses are built of pennant sandstone, and that the matching stone boundary walls are an important feature of the environment. The walls link together with the stone terraces, providing a consistent setting and creating a coherent and harmonious heritage environment. The leaflet goes on to say that where the stone boundary walls have been replaced by other materials the character of the streetscape has changed, causing a threat to the character of the area, particularly when gardens are replaced with tarmacked car parking areas. It concludes that it is important, therefore, to preserve, or even reinstate where possible, the natural stone walls that provide such an important cohesive role.
8. The appeal development has resulted in the loss of part of a section of traditional boundary stone walling on a principal street frontage within the conservation area and its replacement by prominent timber boarded gates. As noted above, the traditional stone walling contributes to the cohesion and setting of the terraces within the conservation area and thus to its heritage significance. I consider that the resulting change to the streetscape has harmed, and thereby fails to preserve or enhance, the appearance and the character of the conservation area.
9. The development plan for the area is the Bridgend Local Development Plan (LDP). Strategic policy SP2 Design and Sustainable Place Making seeks that all development contributes to creating places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment. Policy SP5 Conservation of the Built and Historic Environment underlines that development proposals should take full account of the statutory protection afforded to heritage assets such as conservation areas. In this regard the development plan is consistent



with the placemaking outcomes sought by Welsh Government guidance in Planning Policy Wales. I conclude that the demolition of the section of stone boundary wall and its replacement by the timber gated vehicular access conflicts with LDP policies SP2 and SP5, and that the development to which the appeals relate thus does not accord with the development plan.

10. I have considered all other matters raised. I recognise that the appellant was unaware that the property was a conservation area, as this was not revealed by a local land search prior to purchase due to the date of its designation. Moreover, I accept that it is not always easy to understand the complexities of the different permissions and consents required and that the appellant has not deliberately acted in contravention of planning legislation. However, I have determined the appeals purely on the planning merits of the development concerned, irrespective of the fact that it has already been carried out. I have noted the reference to other developments carried out nearby; however, there is no evidence that the Council has granted permission for comparable development in the conservation area. Even if this were the case, this would not alter the primary requirement to determine the case on its own merits.
11. I recognise also that the Article 4(2) Direction concerning boundary walls was not introduced until after the development was carried out and the applications subsequently made. However, it remains the case that planning permission and conservation area consent were necessary at the time the development was carried out and that the relevant policy context has not changed. Moreover, the making of the Article 4(2) Direction confirms the importance of traditional stone wall features to the character and appearance of the Nantymoel Conservation Area and its heritage significance. The fact that no other residents have objected does not alter the weight I must give to the importance of preserving or enhancing the conservation area's character or appearance.
12. I note that the Council's notice of refusal of planning permission refers in reason for refusal 2 to fences in addition to the gates which have been installed. The appellant maintains that he has not erected any fences, stating that they were erected by the owner of the adjoining site. Moreover, the planning application details submitted for the Council's consideration did not include the erection of a fence. I have disregarded the fencing in arriving at my decision; however, this does not alter the harm I have identified arising from the loss of the section of stone wall and its replacement with wooden gates.
13. The points raised in support of the appeal, therefore, are insufficient to outweigh the harm caused to the character and appearance of the conservation area that I have identified. Material considerations do not exist which point to a determination otherwise than in accordance with the development plan.
14. In reaching my conclusions, I have taken account of 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 building better environments.
15. Accordingly, and having taken account of all matters raised, I dismiss both appeals.

*Alwyn B Nixon*

**Inspector**