

APPEALS

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

CODE NO.	D/20/3256506 (1997)
APPLICATION NO.	P/20/327/FUL
APPELLANT	MR R RAWLES
SUBJECT OF APPEAL	SINGLE STOREY EXTENSION TO REAR 20 UPPER STREET, MAESTEG
PROCEDURE	HOUSEHOLDER APPEAL
DECISION LEVEL	DELEGATED OFFICER

The application was refused for the following reason:

1. The proposed extension, by reason of its siting, scale and proximity to 21 Upper Street, to the north, would have an unreasonably dominant and imposing impact on this property 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).

CODE NO.	D/20/3257637 (1998)
APPLICATION NO.	P/20/49/FUL
APPELLANT	MR M ROSSINI
SUBJECT OF APPEAL	DEMOLISH EXISTING SIDE STRUCTURE AND REPLACE WITH 2 STOREY EXTENSION; RAISE ROOF OF DWELLING TO PROVIDE FIRST FLOOR ACCOMMODATION; DORMER TO FRONT ELEVATION WITH JULIET BALCONY 45 WEST DRIVE, PORTHCAWL
PROCEDURE	HOUSEHOLDER APPEAL
DECISION LEVEL	DELEGATED OFFICER

The application was refused for the following reason:

1. The proposed development by reason of its scale, siting, fenestration detailing and the introduction of some new materials to the external finishes of the property, would be visually obtrusive and prominent and generally out of character with the existing dwelling and would unbalance the pair of semi-detached properties to the detriment of the visual amenities of the area contrary to Policy SP2 of the Bridgend Local Development Plan, SPG 02 : Householder Development and advice contained in Planning Policy Wales (10 - Dec, 2018).
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CODE NO.	A/20/3250766 (1899)
APPLICATION NO.	P/20/297/FUL
APPELLANT	MR D HALES
SUBJECT OF APPEAL	CONSTRUCT A SINGLE GARAGE (RE-SUBMISSION OF P/19/949/FUL) 20 BRIDGEND ROAD, PORTHCAWL
PROCEDURE	HOUSEHOLDER APPEAL
DECISION LEVEL	HOUSEHOLDER

The application was refused for the following reason:

1. The proposed garage by reason of its scale, siting and design would represent an incongruous and prominent addition to the streetscene to the detriment of local visual amenities and the nearby Newton Conservation Area, contrary to Policies SP2 and SP5 of the Local Development Plan (2013), Supplementary Planning Guidance Note 02 Householder Development and advice contained within Planning Policy Wales (Edition 10 - December 2018).
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The following appeals have been decided since my last report to Committee:

CODE NO.	A/20/3245529 (1886)
APPLICATION NO.	P/19/590/FUL
APPELLANT	G B PROPERTY COMPANY LTD
SUBJECT OF APPEAL	THREE PAIRS OF 3 BED SEMI-DETACHED DWELLINGS (6 DWELLINGS IN TOTAL) WITH ASSOCIATED CAR PARKING LAND NORTH OF 12 BRIDGEND ROAD, PONTYCYMMER
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**

CODE NO. A/20/3246041 (1887)
APPLICATION NO. P/19/590/FUL

APPELLANT HAFOD HOUSING ASSOCIATION & JEHU

SUBJECT OF APPEAL ERECTION OF 41 AFFORDABLE RESIDENTIAL DWELLINGS WITH ASSOCIATED ON SITE CAR PARKING, ACCESS AND ASSOCIATED WORKS:
LAND SOUTH OF WYNDHAM CLOSE, BRACKLA INDUSTRIAL ESTATE, BRIDGEND

PROCEDURE WRITTEN REPS

DECISION LEVEL COMMITTEE

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 B**

CODE NO. A/20/3246041 (1891)
APPLICATION NO. P/20/11/OUT

APPELLANT MR P EVANS

SUBJECT OF APPEAL OUTLINE APPLICATION FOR UP TO 9 DWELLINGS AND ASSOCIATED WORKS
LAND OFF TONDU ROAD, NORTH OF PASCOES AVENUE, BRIDGEND

PROCEDURE WRITTEN REPS

DECISION LEVEL COMMITTEE

DECISION THE INSPECTOR APPOINTED BY THE WELSH MINISTERS TO DETERMINE THIS APPEAL DIRECTED THAT THE APPEAL BE DISMISSED AND THE COSTS APPLICATION REFUSED

A copy of the appeal and costs decision is attached as **APPENDIX C**

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

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 is attached as **APPENDIX D**

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 02/06/20 & 01/07/20

**gan H C Davies BA (Hons) Dip UP
MRTPI****Arolygydd a benodir gan Weinidogion Cymru****Dyddiad: 14.08.2020****Appeal Decision**

Site visit made on 02/06/20 & 01/07/20

by H C Davies BA (Hons) Dip UP MRTPI**an Inspector appointed by the Welsh Ministers****Date: 14.08.2020****Appeal Ref: APP/F6915/A/20/3245529****Site address: Land north of 12 Bridgend Road, Pontycymmer CF32 8EH****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 G B Property Company Ltd against Bridgend County Borough Council.
- The application Ref P/18/590/FUL, is dated 19 July 2018.
- The development proposed is 'Three pairs of 3 bed semi-detached dwellings with associated car parking.'

Decision

1. The appeal is dismissed, and planning permission is refused.

Procedural Matter

2. I initially visited the appeal property on 2 June 2020 but was unable to complete my inspection as I could not gain access to the neighbouring properties. I completed my inspection on 01 July 2020.

Background and Main Issues

3. After the appeal against the Council's failure to determine the application was made, the Council issued its decision on 1 February 2020 within the dual jurisdiction period. In that light I consider that the main issues in this case to be the effect of the proposal on the living conditions of existing residents and future occupants of the development; and the sustainability of the location for residential development.

Reasons*Living Conditions*

4. The appeal site lies within the settlement boundary of Pontycymmer, as identified in the Bridgend Local Development Plan (LDP), and comprises a steeply sloping site, fronting onto Bridgend Road. The surrounding residential area is characterised by rows of semi-detached and terraced dwellings with varying garden sizes. Elevated above the appeal site, immediately west, are 4 residential properties fronting onto Braichycymer Road. The proposed development comprises three pairs of semi-detached dwellings, fronting onto the road, all of which are three-storey dormer-style, designed in a split-level fashion taking into account the sloping nature of the site.

5. My attention has been drawn to Supplementary Planning Guidance : 02 Householder Development (SPG) which recommends standards in regards to space about dwellings and their relationship with other properties. As the appeal scheme relates to new residential development rather than household development the SPG does not specifically apply to the circumstances of this case. Nevertheless, in the absence of any other relevant SPG on the issue being presented, it provides useful guidance on establishing circumstances when an impact of a development on neighbours' living conditions can be harmful. From my experience, the residential amenity standards set out in the SPG are consistent with those used by other Local Planning Authorities.
6. The SPG provides guidance of minimum distances between directly facing habitable room windows in adjacent properties and whilst this advice represents guidance only, 21 m between windows to habitable rooms has long been used as a standard to maintain privacy. In this case, the separation distances between Nos 1,2 and 3 Braichycymer Road and the proposed dwellings on Plots 5 and 6 would be just under 21 meters, whilst the separation distance between 6 Braichycymer Road and the proposed dwellings at Plots 3 & 4 would be significantly below the 21 metres. Given the intervening distances and topography of the surrounding area, occupiers of properties on Braichycymer Road would be able to look directly into the first and second floor windows incorporated in the rear elevations of the proposed dwellings at plots 3,4,5 and 6. As such, the privacy of future occupants of the scheme would be detrimentally affected by substantial overlooking from existing dwellings.
7. By virtue of the different ground levels and boundary treatments, the siting of the proposed dwellings is likely to lead to some views into the rear gardens of existing properties on Braichycymer Road, however, not to the extent that it would result in unacceptable harm to the privacy of users of those gardens.
8. Notwithstanding that the appellant considers the provision of private outdoor amenity space may be adequate in terms of size, the useable garden areas would back onto engineered retaining walls, which, at a height of 3 m, would be considerably overbearing for users of the gardens. This would compromise the quality of the outdoor amenity space for future occupants. The retaining walls would also be domineering when viewed from the rear windows of the proposed dwellings and in this regard, the dual aspect windows would provide limited mitigation. The proposed houses would be set further down the bank than existing properties on Braichycymer Road and due to the difference in levels, the existing properties would loom over the amenity spaces and rear elevation ground floor windows of the proposed dwellings in plots 3,4,5 & 6. As such, the outlook from the proposed dwellings and associated gardens would appear oppressive and given the existing properties would be highly visible, it would give rise to a strong sense of being overlooked.
9. I conclude therefore that although the development may not have a detrimental impact on the living conditions of existing residents it would be harm the living conditions of the future occupants. As such, the proposal would conflict with Policy SP2 of the LDP which states, amongst other things, that all development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located.

Highway Safety / Sustainability of location

10. The site is within a reasonable walking distance of the village centre, and whilst I do not dispute the proximity to local facilities and services, I consider this section of Bridgend Road would not represent a particularly attractive or safe route for pedestrians or cyclists. I observed that the width of Bridgend Road does vary and at

the point where the Braichycymer Road, Chapel Street, William Street and Prospect Place junctions all converge with Bridgend Road, the road narrows considerably. As the road currently incorporates poor vertical and horizontal alignment at this point, the necessary width for two vehicles to pass would prove challenging. Furthermore, visibility at the point of egress from Braichycymer Road to Bridgend Road is sub-standard, as are the visibility distances from Chapel Street and William Street.

11. Motorists travelling along this section are likely to reduce their speed when approaching these junctions, nevertheless, the segregated footways beyond the former public house are substantially limited, and, in some areas non-existent. Achieving safe refuge from passing cars would be particularly challenging for residents using wheelchairs or pushchairs, or where northbound drivers meet with vehicles travelling south. I am also concerned by the varying width of the footways beyond Braichycymer Road junction, insofar as its narrowness has the potential to result in pedestrians stepping onto the carriageway in order to pass others. I consider that the absence of demarcated footways, together with sub-standard footways and limited visibility at the various junctions would materially increase the risk of vehicle and pedestrian conflicts.
12. My attention has been drawn to an alternative route into the village centre which would require pedestrians to walk along Bridgend Road in a southerly direction away from the village for over 1km before accessing the right of way which heads back into the village. Given its distance and lack of segregated footways, I consider it highly unlikely that residents would walk to Pantycymmer via this alternative route. There is a bus stop in close proximity, however the Council has confirmed that a bus service no longer operates along this route.
13. Although the appeal site lies within a reasonable walking distance to the village centre, the unsafe pedestrian route in my view, would discourage future occupants of the development from walking to the nearest facilities and services. Consequently, occupiers of dwellings on the appeal site would be reliant upon a car for most day-to-day activities, such that the appeal site cannot be considered to be a sustainable location for housing. I therefore conclude that the proposal would conflict with LDP Policy SP2 which requires all development to contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located.

Other Matters

14. I acknowledge that the proposal would reuse under-utilised land within the village settlement, however this does not outweigh the harm that I have identified.
15. 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.

Conclusion

16. For the reasons given above, I conclude that the appeal should be dismissed and planning permission is refused.

H C Davies

INSPECTOR



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 19/05/20

gan Nicola Gulley MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 03.06.2020

Appeal Decision

Site visit made on 19/05/20

by Nicola Gulley MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 03.06.2020

Appeal Ref: APP/F6915/A/20/3246041

Site address: Land south of Wyndham Close, Brackla Industrial Estate, Bridgend

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 Hafod Housing Association and JEHU against the decision of Bridgend County Borough Council.
 - The application ref P/18/945/FUL, dated 29 November 2018, refused by notice dated 12 September 2019.
 - The development proposed is the erection of 41 affordable residential dwellings, with associated on site car parking, access arrangements and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the impact of the proposed development on: sustainable travel; the living conditions of the future residents of the properties by virtue of noise; and the siting of parking on the character and appearance of the area and pedestrian and highway safety.

Procedural Matters

3. A Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act was submitted with the appeal. The UU makes provision of £114,191 for nursery and primary schools places and £42,599 for outdoor sports and children's play provision at the Gerddi Castell Estate. I am satisfied that the UU would accord with the tests set out in the Community Infrastructure Levy Regulations (2010) and have had regard to its' provisions in the consideration of this appeal.
 4. I have had regard to the Minister for Housing and Local Government's letter dated 26 March 2020, which sets out that high quality new homes in the right locations are essential for our future wellbeing and amends the provisions of national guidance through the: revisions to the 'Housing Delivery' section of Planning Policy Wales, edition 10 (PPW); revocation of Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies (January 2015); and publication of the Development Planning
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Manual, Edition 3 (DPM). Further comments on the implications of these changes were invited and have been taken into account in my consideration of this appeal.

5. I have also had regard to the Minister for Housing and Local Government's letter of 8th July 2019 which outlines proposals for increasing the supply of affordable housing. The letter makes clear that sites identified for the provision of affordable housing should not be inferior in any way to sites promoted for market housing.

Reasons

Background

6. The appeal site is located on the eastern edge of Brackla Industrial Estate, Bridgend. The site comprises two small elevated plateaus of overgrown brownfield land which are enclosed by the industrial buildings on Wyndham Close and Heol Ffaldau, the modern residential development centred around St Michael's Way and St Illtyd's Close and the escarpment which forms the boundary with the Brackla Ridge and Associated Area green space. Access to the site would be afforded via Wyndham Close, which is one of the main distributor roads serving the industrial estate. Immediately to the north east of the site is the residential estate of Gerddi Castell, which at the time of my visit was under construction.
7. Policy SP2 of the Adopted Bridgend Local Development Plan (LDP) (2013) requires, amongst other things, that proposals for new development: contribute to creating high quality, attractive and sustainable places that; have good and equitable walking, cycling, public transport and road connections; and do not adversely impact on the viability and amenity of neighbouring uses and their users/occupiers. Additional guidance is contained in the Council's adopted Supplementary Planning Guidance 17 (SPG 17)- Parking Standards. National guidance in relation to the national sustainable planning outcomes, soundscapes and sustainable transport is contained in Planning Policy Wales, Edition 10 (2018) (PPW 10).

Provision of Affordable Housing

8. In support of the proposal the appellant has drawn my attention to the shortfall in the provision of market and affordable housing in the County Borough. The appellant's statement indicates that: the provision of market housing in Bridgend fell below the levels outlined in the LDP trajectory consistently between 2013-18 resulting in a 'critical' under supply of new market and affordable housing; and, that the latest Local Housing Market Assessment shows a need for 411 affordable dwellings per annum in the County Borough. The appellant contends that the development of schemes such as that proposed, which it is suggested could be delivered within 18 months, would assist in alleviating the need for social rented and intermediate housing in the short term.
9. The Council accepts that there has been a shortfall in provision of new affordable and market housing but contends that this, and future need will be addressed in the emerging replacement LDP.
10. Based on the evidence presented, it is clear that there is a need for, and shortfall in, the provision of, affordable housing in the County Borough which, because of the requirements of the statutory plan making process, will not be addressed in the short term. I consider that the need to ameliorate the short fall in affordable housing is a significant factor that weighs in favour of the proposed development.

Sustainable Travel

11. The National Sustainable Planning Outcomes seek to ensure that new development creates accessible and healthy environments, where everyone can live, work and travel and play in a way that supports good physical and mental health¹. In this case, the Council contends that the lack of suitable walking, cycling and public transport facilities would result in a development where future residents would be dependent on private car. For its part the appellant maintains that site is in a sustainable location and close to: public transport facilities, which offer access to Bridgend Town Centre and the wider area; foot/cycle routes; employment opportunities at the Brackla Industrial Estate; and the planned outdoor sports, children's play and commercial facilities at the nearby Gerddi Castell Estate. In addition, to improve accessibility the appellant has indicated a willingness to include a new footpath/cycleway along the site access road and a crossing point on the road frontage with Wyndham Close within the scheme.
12. I note the proximity of the appeal site to the bus stop and employment opportunities on Brackla Industrial Estate. I am mindful however, that the limited nature of the bus service² is likely to restrict the ability of future residents to use it to commute for work, education or leisure purposes on a daily basis. With regard to the proximity of Brackla, although jobs may be available at the industrial estate, they will not necessarily provide appropriate opportunities for residents.
13. Access to educational, community and commercial facilities in the area surrounding the appeal site, by mode other than private car, is largely, achieved through the use of a network of foot/cycle paths. Whilst it is clear from the submitted documents that there are existing foot/cycle paths close to the site, and that provision can be made to connect the site to this network, I am mindful that anyone wishing to walk or cycle to or from the site to access facilities, currently, would need to travel along Wyndham Close, a heavily trafficked industrial road. With regard to the provision of a new crossing point, I consider that its siting, immediately adjacent to an existing industrial building, would only serve to exacerbate the situation I have described.
14. In relation to the provision of community and commercial facilities at the Gerddi Castell Estate, I accept that this provision would serve the future residents of the appeal site. However, the facilities do not currently exist and, I am advised, are unlikely to be built for some time. In view of this I consider it unlikely that the facilities would meet the short or medium-term needs of residents.

Noise

15. A key principle of the National Sustainable Planning Outcomes is to ensure that new development in Wales maximises environmental protection and limits environmental impact. An important element of this is ensuring that proposals create appropriate soundscapes. In this regard PPW 10³ requires that proposals for new development should address the implications arising from inappropriate noise levels, in order to ensure that the places created have appropriate soundscapes, and amenity is protected. In this case the proximity of the appeal site to Wyndham Close and Heol Ffaldau and the associated industrial buildings gives rise to concerns that the area surrounding the appeal site would not provide an appropriate soundscape for the development. In order to address these concerns and achieve appropriate noise levels

¹ Planning Policy Wales, Edition 10, figure 3

² Bus services from Church Acre operates on an hourly service between 9.30 and 19.30

³ Planning Policy Wales, Edition 10, paragraphs 152 -157

the development proposes internal and external mitigation measures in the layout of the estate and the design of the dwellings. The approach is supported by the findings of a Noise Impact Assessment.

16. The appellant contends that the approach to the design of the proposed development, and the findings of the submitted noise impact assessment, clearly demonstrate that the relevant noise requirements for good acoustic conditions can be achieved both internally and externally in a manner that meets the requirements of national and local policy. In support of this, my attention has been drawn to a number of residential schemes, most notably that at the Gerddi Castell Estate, which it is suggested are similar to that proposed and which have been subject to similar acoustic mitigation measures.
17. The Council accepts that the proposed mitigation measures would achieve the required internal and external noise levels but contends that the resultant dwellings would be "acoustic prisons", sealed from the outside world and behind high acoustic fences.
18. Unlike the other developments cited by the appellant, which were approved prior to the issuing of PPW or have different development characteristics, the appeal proposal requires that external and internal and mitigation measures are carried out for the whole development. Externally, the development proposes the erection of acoustic fencing of up to 2 metres in height around most of the outer perimeter of the development, only the dwellings adjacent to the estate access would be visible from outside the development. Whilst I accept this approach is necessary to mitigate the impact of noise, I nevertheless consider that the height and length of the enclosure would result in a form of development which would appear isolated and would fail to integrate into the surrounding area. With regard to internal mitigation measures, I note that every window opening in the development would be sealed and would need to remain so if ambient noise levels within individual dwellings are to be maintained. Clean air would be provided by a mechanical ventilation system. Although I am content that this approach would be effective, to my mind the need for every window in a dwelling to be sealed to maintain acceptable noise levels would be oppressive and would fail to create an appropriate living environment for future residence.

Pedestrian and highway safety

19. SPG 17 requires the provision of one parking space per bedroom up to a maximum of three spaces per dwelling, plus an additional space for every five dwellings for visitors. The SPG makes clear that residential developments will not necessarily warrant specific reductions in the level of parking required, although some degree of flexibility may be applied depending on local circumstances and the impact on unallocated on street parking.
20. The Council contends that the provision of parking within plots 6, 10, 14, 15, 35 and 36 and the number of visitor spaces, would be below the level required in the SPG and, as a consequence, the development would be dominated by on-street parking which would in turn affect the safe movement of pedestrians and highway users.
21. In response the appellant; has drawn my attention to Census data which suggests that the levels of car ownership amongst the residents of affordable housing schemes in Bridgend is lower than the ownership levels on schemes for market housing; and, suggests that, if the application of the standards were adjusted to take account of lower car ownership rates, the development would comply with the requirements of the SPG.

22. Whilst I note the appellants concerns, I am conscious that data presented in relation to car ownership levels on affordable housing schemes is based on the findings of the 2011 Census and that no up to date evidence in respect of these trends has been submitted. In the absence of current data, I do not consider that the flexible application of the parking standards would be justified. Moreover, I consider that the failure to provide sufficient parking within the site when considered in conjunction with my earlier findings, that future residents would be reliant on private cars, would result in an increase in vehicles parking on pavements and in turning areas to the detriment of the visual amenities of the estate, and pedestrian and highway safety.

Conclusions

23. 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.
24. In reaching my decision I have had regard to all the matters raised in support of the scheme. Whilst I consider that the proposal would assist in meeting the short fall in affordable housing in Bridgend, this does not outweigh my concerns regarding the effect of the proposed development on sustainable travel, the living conditions of the future residents of the properties by virtue of noise and the siting of parking on the character and appearance of the area and pedestrian and highway safety. As such I consider that the proposed development would be contrary to the objectives of Policy SP2 of the LDP, SPG 17 and PPW 10 in national sustainable planning outcomes, soundscapes and the sustainable transport hierarchy.
25. For the reasons given above, I conclude that the appeal should be dismissed.

Nicola Gulley

INSPECTOR

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 01/07/20

gan A L McCooey BA MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 18.08.2020

Appeal Decision

Site visit made on 01/07/20

by A L McCooey BA MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 18.08.2020

Appeal Ref: APP/F6915/A/20/3249034

Site address: Land off Tondu Road, North of 5 Pascoes Avenue, Bridgend

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/20/11/OUT, dated 2 January 2020, was refused by notice dated 2 April 2020.
 - The development proposed is an Outline Planning Application for up to 9 dwellings and associated works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr P Evans against Bridgend County Borough Council. This application is the subject of a separate Decision.

Background

3. The appeal was submitted against the non-determination of the application. However, the Council issued its decision within the 4-week dual jurisdiction period. In these circumstances the appeal is against the refusal of planning permission. An appeal decision related to a proposal for 24 dwellings on the site was dismissed in December 2019¹.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area; and
 - whether the proposal would be detrimental to highway safety in terms of the access to the site and footways leading to the site; and
 - the effect of the proposal on a site of importance for nature conservation, an area of woodland and the visual amenities of the landscape.

¹ APP/F6915/A/19/3237153

Reasons

5. The site comprises sloping tree covered land on the western side of the A4063, which is a wide dual carriageway as it passes the site that continues for some distance northwards. There are several road accesses opposite leading to commercial and residential areas. There are two cottages to the south at the junction with Mill Lane. The dwellings to the south west of the site are at a considerably higher level. As well as the trees there is a small disused quarry in the northern portion of the site. The site is within a Site of Importance for Nature Conservation (SINC).

Character and Appearance of the Area

6. Whilst scale is a reserved matter in this application, the relevant legislation² requires that the scale parameters for an outline application must be specified. They are therefore a material consideration. The specified parameters mean that the block of up to 9 dwellings would occupy most of the site frontage. They would be 9.5 – 10.5m high in views from the road. A pull-in with an access in and out arrangement is shown on the indicative layout. This scale of development would be out of keeping with the smaller scale dwellings in the local area. The only similar scale building in the locality is on the other side of the road, set well back and at a lower level. In contrast, the proposal would be more prominent and of a scale that would conflict with the local context.
7. The site is part of an attractive woodland that extends to the north. The inevitable loss of trees as a result of development on the site would also be detrimental to the character of this part of Tondu Road. For these reasons the proposal would be contrary to Policy SP2 of the Bridgend Local Development Plan (LDP), which seeks development that contributes to high quality, attractive places. This aim accords with the placemaking priorities set out in Planning Policy Wales.
8. A great deal is made of whether the site is brownfield land or not due to the presence of a quarry within the site. The site is within the built-up area of the principal town of Bridgend, where the principle of development is generally acceptable subject to detailed considerations. I consider that this issue is not significant in the consideration of this proposal.

Highway and Pedestrian Safety

9. As clarified in the previous appeal decision, the details of the access are reserved for subsequent determination. However, the ability to deliver a safe access is clearly a material consideration at outline stage. The Local Planning Authority has considered the principle of the access on that basis, as guided by an appeal decision. It was not incumbent on the Council to seek to consider access independently from the other reserved matters.
10. It is clear that access is intended to be provided from Tondu Road. The A4063 is not a trunk road but it is an inter-urban dual carriageway subject to a 50-mph speed limit. I noted that traffic travels at around the speed limit, as did the previous Inspector. The provision of an access would be hazardous and a reduction of the speed limit to 30 mph would be necessary. The Council indicates that in these cases a Traffic Order is required and that it would not support such an Order. Given the effect of such an Order on the free flow of traffic and highway safety, I agree with the Council's

² Point 4 of Part 2 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012

assessment. This is in line with the previous appeal decision. The appellant claims that the indicated access would not require a traffic Order. No technical or expert evidence is submitted to support this. In contrast, the transport report³ submitted by the appellant confirms that all options for accessing the site will inevitably mean reducing the speed limit on Tondu Road to 30mph.

11. The appellant argues that the A4063 is a street with the definition in the Manual for Streets (MfS) and so priority should be given to the needs of pedestrians as part of the public realm. He contends that an access of the type illustrated should be allowed because it could follow guidance in MfS. MfS is advice aimed principally at the designers of new streets as part of new developments. It is expected to be used predominantly for the design, construction, adoption and maintenance of new residential streets, but it is also applicable to existing residential streets subject to re-design⁴. Its applicability to existing roads is therefore more limited. MfS paragraph 1.17 defines a street for its purposes as a highway that has important public realm functions beyond the movement of traffic. This part of Tondu Road (A4063) does not fall within this definition of a street. Even if it were to, I am not persuaded that advice in a design guide alters the status of this existing public highway. I agree with the previous Inspector that it is an inter-urban dual carriageway and its principal function is the movement of traffic with little or no public realm function. The bulk of the dwellings and businesses in this area are served off side roads set back from Tondu Road itself.
12. I have carefully considered all the evidence and have no doubt that a Traffic Order would be needed and would be unlikely to be supported. I agree with the 2019 appeal decision that the highway implications of such an order, including the effect on the free flow of traffic, would not be justified. The indicative plans submitted with the application refer to a reduction in the width of the carriageway. This would also be detrimental to the free flow of traffic and the safety of cyclists. The advice from a highways officer referred to is not binding on the Council and does not make any formal guarantee of the acceptability of the current indicative access arrangements.
13. The appellant has submitted every postal address on Tondu Road as evidence that there are many individual accesses and it should therefore be regarded as a street. There are few individual accesses on this part of Tondu Road and on the dual carriageway portion. There are several road junctions, but these are not private accesses. The Council has confirmed that there are few individual properties served by direct access onto Tondu Road, particularly along the 50mph dual carriageway section and the few that there are benefit from historic access rights over which the Council has no control.
14. The Council is concerned that the proposal would lead to hazardous U-turn manoeuvres by traffic approaching and leaving the site because the access is onto a dual carriageway. The appellant contends that no factual evidence has been submitted to support this claim. Given the distance that southbound and northbound traffic would have to travel to turn around on entering or leaving the site, I consider that the Council has made a reasonable assumption that U-turn movements would arise. The Council also refers to a recent accident at one of the potential U-turn locations near the appeal site. I give this matter weight in my decision.

³ Vectos Accessibility Report September 2018

⁴ Paragraph 1.1.3 of MfS

15. The dotted lines shown on the adopted highway plans supplied by the appellant show highway verge and not a footway. There are no footpaths along the site frontage or safe links to the footpath network to the south (at the bus stop). In the absence of proposals for footways and safe crossing points to enable pedestrians to negotiate a dual carriageway, I consider that the proposal would be detrimental to pedestrian safety. The site would not be a safe walkable journey from the town centre for similar reasons. I also note that PPG 13⁵ was cancelled in 2012.
16. For the above reasons, I conclude that the proposal would be detrimental to highway and pedestrian safety and the free flow of traffic on a principal inter-urban dual carriageway (A4063) at this location. The development would therefore be contrary to LDP Policies SP2 and SP3 and the related national policy in Planning Policy Wales and Technical Advice Note 18: Transport.

Trees and Ecology

17. The appellant's tree survey notes that the site is an area of Restored Ancient Woodland (RAW) and the trees are subject to a Tree Preservation Order (TPO). The report portrays the trees as young and semi-mature, based on the Ordnance Survey (OS) classifying the area as a treeless quarry in 1993. The appellant has supplied many OS maps of the quarry for various dates from 1877 to present. All of these maps show the symbols for woodland within the appeal site. Even if the trees are around 30 years old as claimed, they are well-established and have a lengthy lifespan ahead of them. They make an important contribution to the character of the area as recognised by the TPO. The Council refers to the Tree Constraints Plan attached to the survey and contends that the site would have to be largely cleared of trees to facilitate the proposal. I consider that this is a fair assessment and that the retained trees and mitigation planting would be confined to a small area close to the western boundary of the site.
18. The preliminary ecological appraisal was undertaken in January, which is outside the optimal period for ecological surveys. The appraisal assesses the habitats present on site and indicates that there is the potential for protected species to be present and recommends precautionary methods for the site clearance in order to avoid impacts on protected species. The appraisal recommends further survey work. It also recommends that a masterplan should seek to retain, protect and enhance woodland vegetation as far as possible. Given the relatively poor condition of woodland habitat it states that there is the potential to enhance retained vegetation through new native shrub planting, aimed at reinforcing site boundaries combined with its sensitive management over the long-term. This will be combined with new tree and shrub planting in compensation for loss elsewhere. Provided those recommendations detailed within the report in respect of mitigation and further survey effort are implemented, the appraisal considers that the proposals could proceed lawfully and in line with planning policy requirements. Notwithstanding, it is difficult to see how the measures outlined in paragraph 4.6 in terms of compensatory planting, creation of glades, wildlife meadows, etc. could be accommodated within this site given the scale of the proposed development.
19. Both these reports appear to argue that because the site is relatively small then the loss of the woodland habitats and the potential impact on protected species, would not be significant. However, the site is within a SINC and is an area of RAW subject to a TPO – Policies ENV4 and ENV6 introduce a presumption against development that

⁵ Referred to as PPS134 by the parties from a mistaken reference in paragraph 4.4.1 in MfS

would adversely affect such designated sites and where the benefits of the proposal outweigh the harm, appropriate mitigation and compensation should be provided. This accords with guidance in Planning Policy Wales and TAN 5 Nature Conservation. As stated above, it is difficult to see how appropriate mitigation and compensation could be provided on the appeal site. I have also considered the effect of the loss of the trees on the site on the character and appearance of the area above. I conclude that the proposal would result in the loss of trees and habitats that are important features of the SINC. The scale of the development means that the amenity of the area could not be compensated for with appropriate mitigation and compensation. The proposal would therefore be contrary to LDP Policies SP2, SP4, ENV4 and ENV6 and conflict with the relevant provisions of Planning Policy Wales and TAN5.

Other matters

20. The Council raises concerns over the available private garden areas for the proposed dwellings in the southern part of the site, which has a more restricted depth. As the application is in outline and for up to 9 dwellings, the details of individual garden areas would be a reserved matter. The Council's delegated report considers that issues of noise from the A4063, contamination and land stability, raised by an objector, could be addressed by the imposition of suitable conditions. I have no reason to disagree with this assessment, which accords with the previous appeal decision.
21. I note that the requirement for various planning obligations to be entered into based on LDP Policies SP2 and SP4, was outlined in the delegated report. No obligations or Unilateral Undertakings have been provided. The Council notes that such obligations are necessary but did not form a reason for refusal. As I have found the development to be unacceptable for other reasons, I need not consider the implications of the lack of such planning obligations further in this decision.

Conclusion

22. I have found that the proposal would be contrary to Policies SP2 and SP3 and national policy in Planning Policy Wales and Technical Advice Note 18: Transport. For the reasons given, I also conclude that the proposal would adversely affect the character and appearance of the area. The submitted Tree Survey and Ecological Appraisal do not alter the fact that the proposal must involve the loss of trees and habitat within a SINC, comprising RAW with trees covered by a TPO. The argument that the site is covered by poor quality trees and scrub is not supported. I consider that the proposal would therefore be contrary to LDP Policies SP2, SP4, ENV4 and ENV6 and conflict with the relevant provisions of Planning Policy Wales and TAN5. I have considered all the matters raised including the benefits of the proposal advanced by the appellant. These matters do not alter my conclusion that the appeal should be dismissed.
23. 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' revised well-being objectives to build healthier, more resilient communities and environments.

A L McCooey

Inspector



Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 01/07/20

gan A L McCooey BA MSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 18.08.2020

Costs Decision

Site visit made on 01/07/20

by A L McCooey BA MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 18.08.2020

Costs application in relation to Appeal Ref: APP/F6915 /A/20/3249034

Site address: Land off Tondu Road, North of 5 Pascoes Avenue, Bridgend

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 planning permission for up to 9 dwellings and associated works.
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Decision

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

Reasons

2. The Development Management Manual Section 12 Annex: Award of Costs (the Annex) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. It also explains that applications for costs must clearly demonstrate how any unreasonable behaviour has resulted in unnecessary or wasted expense. There are two types of cost awards: procedural – when a party has delayed or disrupted the process for determining an application or appeal and substantive issues where unreasonable behaviour relates to issues of substance arising from the merits of the case and this has led to unnecessary or wasted expense.
 3. The original costs application displays a lack of understanding of the dual jurisdiction period in non-determination appeals. The Local Planning Authority has 4 weeks from the receipt of such an appeal to issue a decision on the application. The Council issued a decision within this period. There is no obligation on the Local Planning Authority to inform the appellant that it intends to issue a decision. Indeed, the Council had requested an extension of time to enable a decision to be issued. The appellant did not respond but instead chose to appeal. Whether the Council then wrote to the appellant to inform him that a decision would be issued or not would have made no material difference to the appellant's submissions. The Inspectorate must write to the appellant and offer him the opportunity to revise his grounds of appeal if the Local Planning Authority issues a decision within the dual jurisdiction period.
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4. The appellant was able to revise his grounds with the benefit of a clear understanding of the Council's case. The Local Planning Authority correctly followed procedures. The appellant has not incurred unnecessary costs in availing of the opportunity to submit revised grounds of appeal. I find that there has been no unreasonable behaviour by the Council in these circumstances.
5. The appellant's final comments consist of lengthy repetition of the Annex with little explanation of the relevance of the text quoted. The Local Planning Authority has produced evidence to substantiate each of the reasons for refusal. The appellant's claims to the contrary are not supported by any cogent evidence.
6. The Council supplied a chronology of the processing of the application. The appellant criticises this chronology because it omits reference to a memorandum of 8 June from the Council's Transportation Policy and Development Section and he claims that it was deliberately withheld. Normal appeal procedures allow parties to submit statements of case and comment on opposing parties' evidence. The Council's statement of case is dated 5 June and clearly states that a separate statement from the Highway Authority will be submitted for the appeal. The Highway Authority memorandum of 8 June is the statement referred to and is part of the Council's evidence. It was not withheld from the appellant. Nor was the Council's delegated report on the application, which was provided with the Council's questionnaire in May 2020. The Council's chronology clearly sets out why the decision on the application was delayed. The appellant then lists further examples of unreasonable behaviour from the annex without any explanation of their applicability. In summary, I find that points 6 to 15 and points 1 to 7 under the heading substantive on pages 37-38 have no bearing to this case, are unsupported by any evidence or have been addressed in paragraph 5 above.
7. In his final comments (but not within the costs application) the appellant takes issue with the Council's statement of case being in excess of 3000 words. As noted above, there are two statements: the planning statement is 10 pages (excluding suggested planning conditions) and the Highway's statement is 9 pages. In the context of the appellant's Design and Access statement (38 pages), revised grounds of appeal (20 pages) and final comments (39 pages), I do not find the Council's statements to be excessively lengthy.

Conclusion

8. Having taken into account all the matters raised I conclude that an award of costs is not justified for the reasons set out above. There has not been unreasonable behaviour resulting in unnecessary or wasted expense, as described in Section 12 Annex: Award of Costs, on the part of the Council. The application for costs is therefore refused.

A L McCooey

Inspector

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 06/07/20

gan Clive Nield BSc(Hon), CEng,
MICE, MCIWEM, C.WEM

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 14.08.2020

Appeal Decision

Site visit made on 06/07/20

by Clive Nield BSc(Hon), CEng, MICE,
MCIWEM, C.WEM

an Inspector appointed by the Welsh Ministers

Date: 14.08.2020

Appeal Ref: APP/F6915/D/20/3253435

Site address: 7 Park Avenue, Porthcawl, Bridgend, CF36 3EP

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 Winsor Hopkins against the decision of Bridgend County Borough Council.
 - The application Ref P/20/194/FUL, dated 28 February 2020, was refused by notice dated 12 May 2020.
 - The development proposed is a first floor extension above an existing side annex.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are the effects of the proposed development on the visual amenities of the existing property, the street scene and the surrounding area.

Reasons

3. The proposed first-floor extension would be set back slightly from the front elevation of the present ground floor accommodation but would follow the same line along the side boundary with the adjoining property, 5 Park Avenue. As such, it would be contrary to the guidance in the Council's Supplementary Planning Guidance (SPG) Note 2: Householder Development, which advises against first floor extensions up to the side boundary. It says that such arrangements can give the impression of closing the gap between properties, particularly if repeated by the adjoining property, which can materially affect the character of the street.
 4. In this case, a side extension is currently under construction at the adjoining property (started since the Council made its decision), and it is evident that only a very small gap would be left between the 2 buildings. Consequently, the terracing effect advised against by SPG Note 2 would certainly occur.
 5. However, this is not the only, or even the main harmful effect that the proposed development would cause. It is poorly designed in the context of the existing host building and its surroundings. In particular, its window design and proposed roof
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shape do not reflect those of the host building, contrary to other advice in SPG Note 2. Consequently, the proposed extension would look out of place and incongruent, and it would be unacceptably harmful to the character and appearance of the appeal property itself, to the street scene and to the surrounding area. The proposal would be contrary to Local Development Plan Policy SP2, which requires new development to be of high quality design, respecting and enhancing local character.

6. The Appellant has taken issue with the side extension granted planning permission at the adjoining property, No. 5, and says the Council has been inconsistent in making the 2 decisions. That is a matter best taken up with the Council. My assessment of this appeal is based on the merits of the particular proposal before me.
7. My conclusion, in this case, is that the proposed development would be unacceptably harmful, as explained above, and contrary to development plan policy. I therefore conclude that the appeal should be unsuccessful.
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 people and businesses to drive prosperity.

Clive Nield

Inspector