

## **APPEALS**

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

<b>CODE NO.</b>	A/20/3253547 (1895)
<b>APPLICATION NO.</b>	P/19/114/FUL
<b>APPELLANT</b>	MR NATHAN & MRS SOPHIE PRICE
<b>SUBJECT OF APPEAL</b>	ONE STATIC RESIDENTIAL GYPSY CARAVAN TOGETHER WITH THE ERECTION OF A DAY/UTILITY ROOM, ONE TOURING CARAVAN, REPLACEMENT STABLE BLOCK, CAR PARKING AREA AND INSTALLATION OF A SEPTIC TANK LAND AT THE BARN, SMALLHOLDINGS LANE, COITY
<b>PROCEDURE</b>	HEARING
<b>DECISION LEVEL</b>	DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposal, by virtue of its siting, layout design and scale, represents an inappropriate and unjustified form of development in this countryside location that would detract from the rural character and appearance of the area contrary to Policy COM6-Gypsy and Travellers Sites and Policy SP2 – Design and Sustainable Place Making of the Bridgend County Borough Council Local Development Plan 2006-2021; and advice contained in Planning Policy Wales Ed.10 (December, 2018), TAN12-Design and Welsh Government Circular 30/2007 Planning for Gypsy and Traveller Caravan Sites (December 2007).
  2. The proposed development is situated in a remote, unsustainable location that is not accessible by a range of different transport modes and will rely on the use of private motor vehicles. The proposal is therefore contrary to policy SP2(6) of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 10, 2018).
  3. The proposed development, by reason of its form and location, would generate pedestrian movements along the access lane to Smallholdings, Hendre Road & Heol Byeastwood towards Pencoed and Coity where there is no pedestrian footway or refuge resulting in an increased risk of pedestrian / vehicular conflict to the detriment of highway safety. The proposal is therefore contrary to Policies SP2 and SP3 of the Bridgend Local Development Plan (2013), advice contained within Planning Policy Wales, Edition 10, 2018 and Circular 005/2018.
  4. The proposed development by reason of its form and location off a narrow and substandard access road leading to the site, represents an unsuitable scheme that could not be accommodated without having a detrimental impact on highway safety in and around the site contrary to Policy SP3 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 10, 2018) and Technical Advice Note 18 (2007).
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**CODE NO.** A/21/3277328 (1925)  
**APPLICATION NO.** P/21/285/FUL

**APPELLANT** MR G BAYLISS

**SUBJECT OF APPEAL** DEMOLISH EXISTING GROUND FLOOR BATHROOM/WC AND STORE; CONSTRUCT TWO STOREY SIDE/REAR EXTENSION; SINGLE STOREY REAR EXTENSION WITH BALCONY ABOVE; SINGLE STOREY SIDE EXTENSION; DETACHED GARAGE GLANDYRUS, CAEHELIG, BRYNCETHIN

**PROCEDURE** HOUSEHOLDER

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposed extensions, by reason of their size and scale, represent an excessive, incongruous and overly prominent form of development within a countryside location that will have a detrimental impact on the character and appearance of the host dwelling, contrary to Policies SP2 and ENV1 of the Local Development Plan (2013), Supplementary Planning Guidance Note 02 Householder Development and advice contained within Planning Policy Wales (Edition 11, February 2021).
2. The proposed materials and finishes are considered to be inappropriate and out of keeping with the character and appearance of the host dwelling, and their introduction would result in the loss of the original character of the cottage, contrary to Policy SP2 of the Local Development Plan (2013), guidance contained within Note 11 of Supplementary Planning Guidance Note 02 Householder Development and advice contained within Planning Policy Wales (Edition 11, February 2021).

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**CODE NO.** A/21/3280373 (1926)  
**APPLICATION NO.** P/20/898/RLX

**APPELLANT** ALDI STORES LIMITED

**SUBJECT OF APPEAL** VARIATION OF CONDITION 1 OF PLANNING PERMISSION REF. P/14/65/RLX TO ALLOW DELIVERIES TO THE STORE BETWEEN THE HOURS OF 06:00 HOURS – 22:00 HOURS MONDAY TO SATURDAY AND 07:00 HOURS – 20:00 HOURS ON SUNDAYS AND BANK HOLIDAYS FOR A PERIOD OF 6 MONTHS ALDI, LLYNFI ROAD, MAESTEG

**PROCEDURE** WRITTEN REPRESENTATION

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reason:

The proposed relaxation of the hours of operation for a temporary period of 6 months to allow Deliveries from 6am in the morning (Mon-Sat) would have a detrimental impact on the residential amenities of neighbouring residential occupiers by way of noise pollution during anti-social hours contrary to Policy SP2 of the Bridgend County Borough Council Local Development Plan 2013 and advice contained within Planning Policy Wales 11 (February 2021).

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**CODE NO.** A/21/3271534 (1927)  
**APPLICATION NO.** P/20/1024/FUL

**APPELLANT** MR M KHALIQ

**SUBJECT OF APPEAL** RETENTION OF LOCKABLE STEEL CONTAINER  
LAND AT THE REAR OF 1 & 2 JUBILEE GARDENS AND  
ADJACENT TO THE BARN, PORTHCAWL

**PROCEDURE** WRITTEN REPRESENTATION

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposed retention of the storage container, by reason of its design and location in a rural area, constitutes an undesirable, unjustified and non-compatible form of development outside any existing settlement boundary that is detrimental to the visual amenities and character of the surrounding countryside locality, contrary to Policies PLA1, ENV1 and SP2 of the Bridgend Local Development Plan 2013 and advice contained in Planning Policy Wales (Edition 11, February 2021).
2. The proposed retention of the storage container, by reason of its nature, scale and proximity to residential properties, results in a significant source of nuisance and disturbance to the detriment of the amenities of neighbouring residential properties, contrary to Policies SP2 and ENV7 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 11, February 2021).

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**CODE NO.** A/21/3278527 (1928)  
**APPLICATION NO.** P/20/1027/FUL

**APPELLANT** MR M KHALIQ

**SUBJECT OF APPEAL** CHANGE OF USE FROM POTATO STORE TO BUILDERS YARD  
AND WORKSHOP  
LAND AT THE REAR OF 1 & 2 JUBILEE GARDENS AND  
ADJACENT TO THE BARN, PORTHCAWL

**PROCEDURE** WRITTEN REPRESENTATION

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reasons:

1. The proposal, by reason of its location and form, represents an undesirable, unjustified and non-compatible use in a predominantly rural area outside any existing settlement boundary having a detrimental impact on the character of the surrounding countryside locality and would set an undesirable precedent for further applications for similar development in this area, contrary to Policies PLA1, ENV1 and SP2 of the Bridgend Local Development Plan 2013 and advice contained within Planning Policy Wales (Edition 11, February 2021).

2. The non-conforming use, by reason of its nature, scale and proximity to residential properties, introduces a commercial use results in a significant source of nuisance and disturbance to the detriment of the amenities of neighbouring residential properties, contrary to Policies SP2 and ENV7 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales (Edition 11, February 2021).
3. The proposal, by reason of its location and form, will materially increase the number of vehicles and also the type of vehicles that use the site, with the intensification of the access road on Jubilee Gardens raising both highway and pedestrian safety concerns contrary to Policies SP2 and SP3 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales Edition 11, 2021.
4. The proposal, by reason of its form and location outside the settlement of Porthcawl and within the countryside that is not accessible by a range of different transport modes, is considered an unsustainable form of development that is contrary to Policies SP2 and SP3 of the Bridgend Local Development Plan (2013) and advice contained within Planning Policy Wales Edition 11, 2021.

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<b>CODE NO.</b>	D/21/3281863 (1929)
<b>APPLICATION NO.</b>	P/21/239/FUL
<b>APPELLANT</b>	MR S ANKERS
<b>SUBJECT OF APPEAL</b>	TWO STOREY/SINGLE STOREY REAR EXTENSIONS 4 BOWER STREET, KENFIG HILL
<b>PROCEDURE</b>	HOUSEHOLDER
<b>DECISION LEVEL</b>	DELEGATED OFFICER

The application was refused for the following reason:

1. The proposed development, by reason of its siting, scale and design, represents an unneighbourly and unacceptable form of development which has a detrimental impact on the residential amenities enjoyed by the occupiers of the neighbouring property known as 6 Bower Street. The proposal is therefore contrary to Policy SP2 of the Bridgend Local Development Plan (2013), Supplementary Planning Guidance 02: Householder Development (2008) and advice contained within Technical Advice Note 12 - Design (2016), Planning Policy Wales (Edition 11, February 2021) and Future Wales – the National Plan 2040 (Feb 2021).

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<b>CODE NO.</b>	A/21/3281824 (1930)
<b>APPLICATION NO.</b>	P/21/385/TPN
<b>APPELLANT</b>	HUTCHISON UK LTD
<b>SUBJECT OF APPEAL</b>	PRIOR NOTIFICATION FOR PROPOSED 20.0M PHASE 8 MONOPOLE WITH WRAPAROUND CABINET AT BASE AND ASSOCIATED ANCILLARY WORKS LAND NEXT TO FARM FOODS, PENTRE FELIN RETAIL PARK, TONDU

**PROCEDURE** WRITTEN REPRESENTATIONS

**DECISION LEVEL** DELEGATED OFFICER

The application was refused for the following reasons:

1. Insufficient details of the proposed development have been submitted to enable an assessment of highway safety considerations to be made.
2. The proposed development is considered premature until such time as the realignment of the A0463 associated with the consented residential development South West of Maesteg Road, Tondu is completed (P/19/915/RES & P/16/366/OUT refer).

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

**CODE NO.** A/21/3274317 (1919)

**APPLICATION NO.** P/20/800/FUL

**APPELLANT** MR & MRS NOBLE HOOK

**SUBJECT OF APPEAL** RETENTION OF AN EXISTING OUTBUILDING ERECTED FOR THE PROVISION OF THERAPY TO ADULTS AND CHILDREN WITH LEARNING DIFFICULTIES AND SPECIAL NEEDS  
TYNTON FARM, MOUNT PLEASANT COTTAGES, LLANGEINOR

**PROCEDURE** WRITTEN REPRESENTATION

**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.** A/21/3274987 (1920)

**APPLICATION NO.** P/20/752/FUL

**APPELLANT** MR & MRS KELLY

**SUBJECT OF APPEAL** PART CONVERSION OF GARAGE & ROOF EXTENSION TO CREATE 1-BED RESIDENTIAL UNIT; ASSOCIATED EXTERNAL ALTERATIONS  
19 COYCHURCH ROAD, PENCOED

**PROCEDURE** WRITTEN REPRESENTATION

**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 B**

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**CODE NO.** ENV/3275423 (1921)  
**APPLICATION NO.** T/21/7/TPO

**APPELLANT** MR A HOWELL

**SUBJECT OF APPEAL** CONTINUAL POLLARDING OF TREES (T/18/17/TPO REFERS)  
REAR OF 44 BRIARY WAY, BRACKLA, BRIDGEND

**PROCEDURE** WRITTEN REPRESENTATION

**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 C**

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**CODE NO.** A/21/32761 (1922)  
**APPLICATION NO.** P/20/859/FUL

**APPELLANT** MR GURPREET SINGH

**SUBJECT OF APPEAL** CHANGE OF USE OF RETAIL SHOP (A1) TO HOT-FOOD  
TAKEAWAY CHIP SHOP (A3)  
10 CAERAU ROAD, MAESTEG

**PROCEDURE** WRITTEN REPRESENTATION

**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 D**

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**RECOMMENDATION**

That the report of the Corporate Director Communities be noted.

**Janine Nightingale**  
**CORPORATE DIRECTOR COMMUNITIES**

**Background Papers** (see application reference number)



## Penderfyniad ar yr Apêl

Ymweliad safle a wnaed ar 22/06/21

gan Hywel Wyn Jones, BA (Hons) BTP  
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 27/8/21

## Appeal Decision

Site visit made on 22/06/21

by Hywel Wyn Jones, BA (Hons) BTP  
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 27/8/21

**Appeal Ref: APP/F6915/A/21/3274317**

**Site address: Tynton Farm, Llangeinor, Bridgend, CF32 8NY**

**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 and Mrs Noble Hook against the decision of Bridgend County Borough Council.
- The application Ref: P/20/800/FUL dated 14 October 2020, was refused by notice dated 7 April 2021.
- The development is described as the retention of an existing outbuilding erected for the provision of therapy to adults and children with learning difficulties and special needs.

### Decision

1. The appeal is dismissed.

### Procedural and preliminary Matters

2. As the subject works have been undertaken the appeal seeks retrospective permission.
3. The appellants are critical of the Council's handling of the planning application but, as that is not a matter for me, I have confined my considerations to the planning merits of the development.

### Main Issues

4. The main issues are:
  - (i) the effect of the building on the setting of Tynton listed building; and
  - (ii) whether the scheme constitutes an exception to the rural restraint strategy of the development plan.

### Reasons

5. The appeal property comprises a large two-storey farmhouse with a collection of outbuildings, both modern and traditional, loosely grouped around it and surrounded by fields. Some of the traditional, stone-built buildings are in a

dilapidated condition. The site is elevated above the nearby settlement of Llengeinor and is accessed by a private track.

6. The appeal building and its adjacent stone surfaced outdoor amenity space are enclosed on 3 sides by ranch style fencing. It fronts the driveway to the farmhouse and is elevated above the valley side that slopes steeply away at its rear. The building has painted timber clad walls under a shallow pitched roof. It is similar in size and design to a garden shed or summerhouse. Internally there is a treatment room accessed directly from the front double doors and a small wc room in a rear corner.

#### *Setting of listed building*

7. The farmhouse is a 17<sup>th</sup> century two-storey building which is listed not only because of its historical associations with the eminent philosopher, Dr Richard Price, but also as a largely intact vernacular farmhouse.
8. The large farmhouse has an imposing presence which is emphasised by its orientation and elevated location which provides it with commanding views over the Garw Valley and an extensive area of countryside beyond. Despite its modest size, the siting of the appeal building in front of the farmhouse and adjoining the driveway access means that it is a conspicuous feature in this view. It is also prominent on approaching the farmhouse along the access track and from within the parking area serving the house.
9. The building's lightweight modern appearance and colour combined with its prominent siting means that it is an incongruous feature in the context of the farmhouse and its rural setting. Its prominence is further emphasised by the fencing, picnic table and potted plants within the dedicated outside space and its position close to the edge of the steep valley slope. Its presence intrudes on the setting of the farmhouse and harms its special character, and as such it is contrary to policy SP5 of the Bridgend Local Development Plan 2006-2021 which seeks to conserve, preserve or enhance the built and historic environment.
10. The appellants point to their work to renovate and maintain the farmhouse; however such considerations do not justify permitting development that harms the building's setting. It is also stated that as there are no public vantage points any effect on the setting is only viewed by occupiers of the farmhouse, visitors and clients. Such a consideration does not warrant permitting such harm particularly given the relevant statutory duty<sup>1</sup>.

#### *Rural restraint strategy*

11. The LDP identifies the site as falling within the countryside. Both local and national policies seek to protect the countryside by strictly controlling development in such areas, directing most new development to within settlements.
12. LDP policy ENV1 is of particular relevance; it identifies 10 types of development that may be acceptable in the countryside and provides an expectation that where possible such development should utilise existing buildings and previously developed land and/or have an appropriate scale, form and detail for its context. The supporting text to the policy explains that development in the countryside should benefit the rural economy, whilst maintaining or enhancing the environment.

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<sup>1</sup> Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990



13. The appellants suggest that the scheme could be considered to fall within the third development type listed in ENV1. I disagree – whilst the specific type of work undertaken may benefit from the peaceful environment found in this area of countryside, the provision of healthcare facilities cannot be treated as a rural enterprise for the purposes of this policy. There is no dispute that the scheme does not fall within any of the other specified development types.
14. The appellants opine that the types of development listed in the policy should not be considered an exhaustive list of what should be deemed acceptable and points to particular requirements of the subject use that requires a countryside location. However, it seems to me clear from the policy's wording that only the development types listed are exceptions to the restrictive approach of the policy and as such the scheme conflicts with it. I shall therefore consider whether the scheme should be permitted in the countryside despite this conflict, bearing in mind that paragraph 4.1.12 of the LDP explains that policy ENV1 will not be set aside lightly in the interests of maintaining the integrity of the countryside.
15. There is no dispute that the building's countryside location offers an ideal environment for this specialist facility by providing therapy in a calm, tranquil setting which is better suited to clients' needs than a traditional clinical environment. The appeal is also supported by the testimonies of practitioners in this field who attest to the particular value of the service provided and to the importance of a countryside setting to the success of the treatment.
16. I agree with the Council that the particular circumstances, including the fact that clients are unlikely to use public transport, means that the site's poor performance in terms of sustainable transport does not weigh heavily against the scheme. However, the Council considers that the benefits to clients does not justify departing from the development plan's protective provisions of the countryside and is fearful of the cumulative impact of granting permissions too often. However, whilst I appreciate the general relevance of such a concern, there is a particular justification in this case. The combination of the small-scale nature of the development, the highly specialised nature of the work and, as the appellants point out, the particular need to be sited in the countryside seems to me to be a combination of factors unlikely to be repeated often. Thus, in principle I consider that an exception to the general restraint strategy could be made in this case.
17. However, in line with the approach taken by policy ENV1 consideration should first be given to the potential of converting an existing building. The appellants assert that it would not be practical or economically viable to convert an existing outbuilding on the property. However, there is only limited evidence provided to support this contention which includes an estimate for the total cost of the renovation of one building, without a detailed breakdown or explanation of the works undertaken. There is no detail on the economic viability of the enterprise against which to assess the reasonableness of alternatives or the long-term future of the project. Moreover, there has been no consideration of utilising buildings in other countryside locations and, whilst I acknowledge the convenience to the appellants of having the facility close to their home, that is not in itself a justification for permitting a new building to be constructed in the countryside.
18. I am not satisfied that the scheme has adequately explored the option of utilising an existing building and, with reference to the first main issue, I have found that it is not of a form appropriate to its context. In these respects, the scheme does not align with the expectations of ENV1 in relation to development in the countryside.

19. On this main issue I conclude that the scheme has not established a justification for its siting in the countryside, in conflict with the restrictive strategy of the LDP as set out in policy ENV1.

*Other Matters*

20. I acknowledge that the expert treatments offered on the site will be of great value to those in need. However, the realisation of such benefits does not require the building to be sited in such a position as to harm the setting of a listed building. Furthermore, it has not been established that there are no other means of providing such a facility which is more closely aligned to the development plan's strategy on development in the countryside.

**Planning Balance and Conclusion**

21. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010 which sets out the relevant protected characteristics which includes disability. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the Act. There would be an adverse impact on individuals with a protected characteristic who may not be able to access the treatment they currently receive at the site. However, having due regard to this, and to the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing the scheme on those with protected characteristics would be justified and the decision would be necessary and appropriate, having regard to the harmful effect of the proposed development in relation to both main issues.
22. Thus, whilst I afford significant weight to the important benefits provided by the specialist treatments administered within the appeal building, they do not outweigh the substantial harm that I have identified. I shall therefore dismiss the appeal.
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' well-being objectives.

*Hywel Wyn Jones*

INSPECTOR



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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 26/07/21

gan **J Burston, BSc MA MRTPI AIPROW**

**Arolygydd a benodir gan Weinidogion Cymru**

Dyddiad: 24/8/21

## Appeal Decision

Site visit made on 26/07/21

by **J Burston, BSc MA MRTPI AIPROW**

**an Inspector appointed by the Welsh Ministers**

Date: 24/8/21

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**Appeal Ref: APP/F6915/A/21/3274987**

**Site address: 19 Coychurch Road, Pencoed, Bridgend, CF35 5NH**

**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 and Mrs Kelly against the decision of Bridgend County Borough Council.
  - The application Ref: P/20/752/FUL dated 28 September 2020, was refused by notice dated 26 March 2021.
  - The development proposed is part conversion of garage and roof extension to create 1-bed residential unit and associated external alterations.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this case are the effect of the proposed development on: the character and appearance of the street scene; the living conditions of neighbouring occupiers, with particular regard to privacy; and the living conditions of future occupiers, with particular reference to outside living space.

### Reasons

#### *Character and appearance*

3. Planning Policy Wales, edition 11 (PPW) emphasises the importance of good design. Moreover, Bridgend Local Development Plan (LDP) Policy SP2 requires development to have a design of the highest quality possible, whilst respecting and enhancing local character and distinctiveness and landscape character, whilst also being of an appropriate scale, size, and prominence. The Council's Supplementary Planning Guidance Note 02 Householder Development (SPG) aims to ensure the integration of development into the surrounding area.
  4. The proposal would replace the existing double garage with a single garage and 1-bedroom maisonette above. The new structure would have a similar footprint to the existing single-storey double garage. However, although the design proposed has sought to minimise any enlargement, the development would nonetheless be a higher structure with a considerably bulkier roofscape.
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5. The dwellings along Glossop Terrace, which forms the street scene in which the appeal site would be viewed, form a row of two-storey terrace houses, with strong architectural detailing and fenestration. These are situated close to the highway, behind a low boundary wall. The position of these dwellings along Glossop Terrace results in them not being widely visible in the surrounding area. By contrast the existing double garage is relatively prominent due to its position close to the junction of Coychurch Road with Glossop Terrace.
6. It seems to me that the new building by reason of its increase in scale would be even more apparent than what exists at present. Indeed, I consider that it would have the appearance of a small dwelling lacking in design features sympathetic to the local vernacular, which would not accord with the prevailing pattern of development and would unacceptably harm the character of the street scene.
7. I have had due regard to the other examples cited by the appellant to support his case. However, whilst these are important considerations, I do not know the circumstances of the examples to determine how similar they are to the case now before me. Having carefully weighed matters up, though, the presence of the developments referred to does not outweigh the harm that I have identified, due largely to its visual prominence and particular location.
8. For these reasons I conclude that the proposal would have an adverse impact on the character and appearance of the street scene. Accordingly, I conclude that the proposal would be contrary to PPW and LDP Policy SP2 and the provisions of SPG as set out above.

*Living conditions of neighbouring occupiers*

9. The SPG states at Note 6 that development "*should respect the privacy of neighbouring houses*". Furthermore, paragraph 4.6.3 sets out that privacy of neighbouring occupiers can be affected and "*To reduce the loss of privacy it is recommended that the minimum distance from the new habitable room window to the boundary should be 10.5 metres, increasing to 12 metres if the window is to a first floor living room, because of the extended day-time occupancy of such a room.*" It is common ground that this separation distance cannot be achieved between the appeal site and 19 Coychurch Road. At its closest point the distance is only 1.5 metres.
10. In such situations the SPG suggests that a reduction in the separation distance may be acceptable where a window could be obscurely glazed and fixed shut. To my mind such an approach would be possible for the impacted windows on the proposed dwelling, including the ground floor window (which serves a bathroom) and the ground floor access door. The first-floor window is located on a staircase and primarily would provide light to the stair well, obscure glazing would blur views from it but would still allow sufficient light to enter the proposed dwelling. Planning conditions would ensure that such measures are put in place to protect neighbouring privacy.
11. Turning to the neighbouring occupier at 2 Glossop Terrace. The development would include a first-floor extension over the garage, which would introduce first floor windows closer to the side boundary than currently exists. The outlook for this window would primarily be towards the side elevation of no 2, and its rear garden. This would increase the levels of overlooking. However, only a small portion of this neighbouring garden would be affected, primarily the areas close to the side boundary and such views would be at an oblique angle. I am satisfied that the overlooking would not result in a significant loss of privacy to this neighbouring occupier.

Furthermore, the appellant states that the windows located on the side elevation of no. 2 do not serve habitable rooms and I have no evidence to disagree with this statement.

12. With regards to overshadowing, due to the position of the proposal any potential overshadowing is likely to be confined to the latter parts of the day when the sun is at its lowest. The proximity of other neighbouring structures would result in varying degrees of shadowing to neighbouring properties and gardens. There is no substantive evidence to quantify the level, if any, of shadowing effects from the proposed dwelling. In any event due to the location of the development in relation to neighbouring dwellings and existing structures any shading is not likely to be substantial overall.
13. I therefore conclude, based on my findings, that the proposed dwelling would not harm the living conditions of the occupiers of the neighbouring properties. It would therefore comply with the requirements of LDP Policy SP2 which amongst other considerations seeks to ensure that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected.

*Living conditions of future occupiers*

14. The proposed development would not have any private amenity space. A minimal amount of communal amenity space would be provided at the rear of the proposal, to which future occupiers would have direct access to store bins, dry washing or sit outside. The Council has no adopted policy prescribing minimum outdoor space standards and many residential properties nearby above shops and blocks of flats have no external amenity space at all. The nature of the proposed dwelling in this case is such that it is unlikely to be occupied by a family with children requiring outdoor amenity space, so the limited amount of amenity space proposed here is not a reason to dismiss the appeal.
15. Accordingly, the proposed dwelling would not harm the living conditions of future occupiers. It would therefore comply with the requirements of LDP Policy SP2 which amongst other considerations seeks to ensure that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected.

**Conclusion**

16. Whilst I have found no significant adverse effects on the living conditions of neighbouring and any future occupiers, I have found that the proposal would result in an adverse impact on the character and appearance of the area. Therefore, the appeal scheme would be contrary to the development plan taken as a whole and material considerations do not indicate planning permission should be forthcoming in spite of this. For these reasons, and having had regard to all matters raised, the appeal is dismissed.
17. 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 objectives of making our cities, towns and villages even better places in which to live and work.

*J Burston*, INSPECTOR



## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 17/08/21

gan R Duggan BSc (Hons) DipTP  
MRTPI

Arolygydd a benodir gan Weinidogion Cymru  
Dyddiad: 16.09.2021

## Appeal Decision

Site visit made on 17/08/21

by R Duggan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers  
Date: 16.09.2021

**Appeal Ref: ENV/3275423**

**Site address: 44 Briary Way, Brackla, Bridgend CF31 2PU**

**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 consent to undertake work to trees protected by a Tree Preservation Order.
- The appeal is made by Mr Alun Howell against the decision of Bridgend County Borough Council.
- The application Ref: T/21/7/TPO, dated 21 January 2021, was refused by notice dated 14 April 2021.
- The work proposed is the continual pollarding of trees.
- The relevant Tree Preservation Order (TPO) is the Ogwr Borough Council Tree Preservation Order (No. 6) 1988 Land at Lower Tremains, Brackla, Bridgend which was confirmed on 21 April 1988.

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the Council's decision to refuse consent to undertake the proposed works to the trees is justified, having regard to the contribution that they make to public amenity and the reasons put forward for the work.

### Reasons

3. The appeal trees are located just beyond the rear boundary fence of the Appellant's property. They form part of a linear grouping of mature trees of varying species that generally follow the route of a small stream that travels through the housing estate and to the rear of the houses on Briary Way. The appeal trees, along with the many other trees in the area, provide an attractive backdrop to the properties in the area and significantly contribute to the character and appearance of the locality.
4. The basis of the Appellant's case is that the work being proposed would maintain the health of the trees. Whilst I noted on my site visit that regrowth has occurred since the previously approved pollarding in 2019<sup>1</sup>, I do not share the Appellant's view that the proposed additional work would improve the health of the trees. To the contrary, I am concerned about the threat to their continued good health and longevity arising

<sup>1</sup> Consent granted for pollarding of trees under Application Ref: T/18/17/TPO

from further pruning works so soon after the 2019 pollarding. Although I agree in part with the evidence put forward by the Appellant<sup>2</sup>, this does not alter the concerns that I have regarding the impact that further pollarding/pruning work would have on their health at this time.

5. Trees of such age, appearance and condition cannot easily be replaced, particularly within the urban environment, and any potential impact on their future health should be avoided. The trees are clearly tolerant of pollarding/pruning and such works are commonplace to address concerns regarding the height of trees and the impact from shading, as well as addressing defects and to prevent significant limb failure and collapse. Nevertheless, the extent of the previous pollarding works in 2019 have already had a significant impact on the height, shape and health of the trees. Therefore, I am concerned that the proposed additional works at this time would lead to deterioration in their health even with partial recovery in the near future.
6. I also note the Appellant's concerns regarding detritus falling into the garden. Whilst I have sympathy with this matter, I do not regard the nuisance factor of clearing tree related debris as a justification for the works as these are a natural and ordinary consequence of having trees within a residential environment. Shedding of such detritus is a natural occurrence to many trees and is to be expected when inhabiting a sylvan area such as this. The trees have benefitted from TPO status for over three decades and the shedding of waste matter is to be expected when moving to such an area. The clearing of leaf litter and tree debris is part of routine maintenance when living in proximity to trees, and in isolation it provides no justification for undertaking the level of work being proposed to the protected trees. Ultimately, all properties require routine maintenance and undertaking the proposed level of works to trees on this basis would soon result in a denuded townscape.
7. Accordingly, I conclude that the trees are a significant recognisable feature in the locality and contribute to the visual amenities of the area. The proposed works would materially harm the health and future vitality of the trees if undertaken so soon after the last pollarding in 2019. I have taken account of all other matters raised by the Appellant including the fact that he has followed procedures in undertaking the previous pollarding of the trees, but do not find anything which materially alters my view as to the merits of the proposal, based on the main considerations as set out above.
8. For the reasons given above, I conclude that based on the available evidence as presented there are insufficient grounds to justify the proposed works to the appeal trees at this present time. None of the other matters raised are of sufficient weight, in my view, to alter the balance of considerations in this case, which I consider point conclusively towards the refusal of consent.
9. 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.

*R. Duggan*

INSPECTOR

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<sup>2</sup> Extracts from Google regarding Pollarding

## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 17/08/21

gan **J P Tudor BA (Hons), Cyfreithiwr (ddim yn ymarfer)**

Arolygydd a benodir gan Weinidogion Cymru  
Dyddiad: 22.09.2021

## Appeal Decision

Site visit made on 17/08/21

by **J P Tudor BA (Hons), Solicitor (non-practising)**

an Inspector appointed by the Welsh Ministers  
Date: 22.09.2021

**Appeal Ref: APP/F6915/A/21/3276137**

**Site address: 10 Caerau Road, Caerau, Maesteg CF34 0PB**

**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 Gurpreet Singh against the decision of Bridgend County Borough Council.
- The application Ref: P/20/859/FUL, dated 2 November 2020, was refused by notice dated 31 March 2021.
- The development proposed is change of use of retail shop (A1) to hot-food takeaway chip shop (A3).

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposed development on the safety of highway users and on the efficient operation of the highway network.

### Reasons

3. The appeal site comprises a retail shop (Class A1), which was last in use as an opticians. It is located on Caerau Road, which consists mainly of two-storey terraced properties. At the western end of the road there are a mix of commercial outlets at ground floor level, including shops and takeaways, while most of the rest of the street is taken up by residential dwellings. The surrounding area is predominantly residential. The proposal is to change the use of the retail shop to a hot-food takeaway 'chip shop' (Class A3).
4. Although a two lane carriageway, Caerau Road is relatively narrow. The Council, supported by the highway authority (HA)<sup>1</sup>, is concerned that the proposed change of use would result in an increase in demand for short-term on-street parking, including from delivery drivers, which it considers is likely to result in an adverse effect on the safe and efficient use of the highway network. In contrast, the appellant maintains

<sup>1</sup> In the form of the Council's Transportation Policy and Development Section



that the effect of the proposal on highway and pedestrian safety would be similar to the existing situation, given that the appeal premises is a retail shop, albeit long vacant.

5. Policy PLA11 of the Bridgend Local Development Plan 2006-2021 (LDP)<sup>2</sup> advises that all development will be required to provide appropriate levels of parking, which should be in accordance with adopted parking standards. The Council's adopted Supplementary Planning Guidance: Parking Standards (SPG17) indicates that the proposed hot food takeaway would require 1 commercial vehicle space, 1 space for non-resident staff and adequate on-street parking for customers nearby.
6. As the appeal site does not appear to offer any off-street parking, it falls short of the SPG17 requirements. The proposal would, therefore, be entirely dependent on the availability of on-street parking for both deliveries and customers. There are double yellow lines outside the premises and extending along the road, with a single yellow line on part of the other side of the road, indicating parking restrictions.
7. The HA advises that, based on the collective professional experience of its officers, retail shops typically have one to two associated deliveries per week while hot food takeaways, such as 'chip shops', have almost daily supply deliveries. The appellant has not provided any substantive evidence to contradict that assessment. Moreover, the proposed 'chip shop' is likely to attract customers arriving by car, including in the evenings when residential parking along the street might be expected to be at its peak with people arriving home from work, even accepting the changes to work patterns and increase in home working during the Covid 19 pandemic. Overall, I consider that the nature of the proposed use would be likely to result in a material increase in demand for short-stay parking close to the premises.
8. As the road comprises a terrace of commercial and residential uses, where few properties benefit from off-street parking, the Council considers that there is already a high level of demand for on-street parking. That view is supported by photographic evidence submitted with the appeal<sup>3</sup>. While such photographs and my own site visit offer only snapshots in time, the parking situation described by the Council is broadly in accordance with my observations on site, when there were very few legitimate parking spaces available and some vehicles were parked on double yellow lines<sup>4</sup>.
9. It may be that more parking spaces are available at other times of the day. However, there is no compelling evidence before me, such as a parking survey or highway consultant's report, to indicate that spaces would be available nearby at relevant times to accommodate the likely increased parking demand. Therefore, I consider that, in the absence of off-street parking provision, the proposed development would be likely to result in indiscriminate on-street parking by delivery drivers, who are often subject to demanding schedules, and by customers arriving by car. They are likely to seek to park close to the takeaway and may well consider it acceptable to park inappropriately, if necessary, on the basis that it would be for a relatively short period.
10. Given the limited width of the road and its use as a bus route, such indiscriminate parking, including double-parking, would be likely to cause a hazard, obstruct the highway or, at least, restrict it to a single lane. That would cause delay for drivers using Caerau Road and may result in potentially dangerous reversing manoeuvres

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<sup>2</sup> Adopted Plan September 2013

<sup>3</sup> Appendix 1 of the Council's Transportation Section appeal statement: photographs taken at midday on Wednesday 7 July 2021

<sup>4</sup> At about 1430 hours on a weekday

being undertaken near a junction if traffic had backed up. Such delays hindering the progress of traffic along the highway would also be to the detriment of the efficient operation of the highway network. I note that the HA has expressed similar concerns. It also cites complaints received about obstruction of the highway by inconsiderately parked delivery lorries associated with existing commercial uses, including takeaways, along the street.

11. In addition, without suitable spaces available, delivery drivers may consider it necessary to park partially on the footway near the new takeaway, which would be likely to inconvenience pedestrians, particularly those with pushchairs or people using wheelchairs. While the appellant refers to the potential illegality of such parking if causing obstruction, concern that a proposed development will lead to indiscriminate parking with concomitant adverse effects on the safety or convenience of highway users is a relevant planning consideration.
12. Given the largely residential nature of the surrounding streets, it is recognised that some customers may travel to the takeaway on foot. However, as the Council advises that the nearest alternative 'Chip Shops' are between 1km and 2km away, it is reasonable to consider that a significant proportion of customers would arrive by car. Even those who live within theoretical walking distance of the takeaway may choose to use a car to transport food back home quickly, while it is still hot.
13. According to the appellant, the shop has been vacant for some 9 years, but it is understood that it could resume its use as a retail shop, although it would fall short of the parking provision requirements in SPG17. Referring to the Use Classes Order<sup>5</sup> and the existing A1 use, the appellant also contends that the premises could legitimately be re-opened as, for example, a bakery or pasty shop. While that may be, there is no clear or persuasive evidence before me to demonstrate that either the existing shop or those other types of businesses would generate the same likely level or type of parking demand as a hot food takeaway, in terms of frequency of deliveries or short-term customer parking. In addition, the appellant refers to temporary permitted development rights for change of use as a result of the Covid 19 pandemic, but concedes that they would not be applicable to the appeal proposal. Therefore, I give those various alleged 'fall-back' positions limited weight.
14. I have considered if conditions could be imposed to make the proposal acceptable. While the Council suggested a condition requiring the submission of a delivery management plan for approval<sup>6</sup>, it would be difficult to control the actions of third party delivery drivers and would not address customer parking demand. Therefore, in this particular case, I am not satisfied that such conditions would be reasonable or effective in mitigating the harms identified.
15. Overall therefore, based on the evidence before me, I conclude that the proposed change of use would be likely to have an adverse effect on the safety of highway users and on the efficient operation of the highway network. Consequently, the proposal would fail to comply with the broad, strategic aims of LDP policy SP2 to create high quality, sustainable places which enhance communities. It would also conflict with LDP policy PLA11 and the associated parking standards, as set out in SPG17.

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<sup>5</sup> The Town and Country Planning (Use Classes) Order 1987 (as amended)

<sup>6</sup> Without prejudice to the outcome of the appeal

## **Planning Balance and Conclusion**

16. In bringing a vacant shop back into use, the proposal would make a contribution to the regeneration of the area and be in accordance with the aims of LDP policy SP1, which is particularly relevant against the backdrop of the Covid 19 pandemic. While that may be, the beneficial contribution associated with the reopening of one commercial premises would be relatively modest. Moreover, such benefits may be achievable by an alternative scheme that would not result in harm to the safe and efficient use of the highway network. In any event, the modest benefits of the appeal proposal would not outweigh the potential harm to highway users.
17. 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 Act'). I consider that this decision is in accord with the Act's sustainable development principle through its contribution towards one or more of the Welsh Minister's well-being objectives as required by section 8 of the Act.

*JP Tudor*

INSPECTOR